

Halsbury's Laws of England/LIBRARIES AND OTHER SCIENTIFIC AND CULTURAL INSTITUTIONS (VOLUME 28 (REISSUE))/1. INTRODUCTION/401. Scope of the title.

## **LIBRARIES AND OTHER SCIENTIFIC AND CULTURAL INSTITUTIONS (**

### **The National Assembly for Wales; transfer of functions**

The Government of Wales Act 1998 established the National Assembly for Wales, and transferred specified functions, with or without modifications, and subject in some cases to supplementary provisions, to it. The Government of Wales Act 2006 re-establishes the National Assembly for Wales and establishes the Welsh Assembly Government, and transfers specified functions, with or without modifications, and subject in some cases to supplementary provisions, to the Welsh Ministers. See generally CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 42A et seq.

Many functions of a Secretary of State or a minister of the Crown have been transferred to the National Assembly for Wales in so far as they are exercisable in relation to Wales: see the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, Sch 1. That Order transfers specified functions, with or without modifications, and subject in some cases to supplementary provisions, under the Literary and Scientific Institutions Act 1854 s 6; the Public Libraries and Museums Act 1964; the Science and Technology Act 1965; the Local Government Act 1972 (with specified exceptions); the National Heritage Act 1980; the Museums and Galleries Act 1992 ss, 6, 9; the National Lottery etc Act 1993.

### **Cultural Strategy Group for London**

The Cultural Strategy Group for London is established by the Greater London Authority Act 1999 s 375, Sch 30. The Mayor of London must publish a culture strategy, based on a draft submitted to him by the Group containing proposed policies with respect to culture, media and sport in Greater London: s 376. See further LONDON GOVERNMENT.

## **1. INTRODUCTION**

### **The National Assembly for Wales; transfer of functions**

As to the transfer of functions to the National Assembly for Wales and the Welsh Ministers, see the introductory note to this title.

#### **401. Scope of the title.**

The institutions and bodies discussed in this title are libraries, museums and other institutions and bodies of a literary, scientific or other cultural nature established, in most cases, either by statute<sup>1</sup> or by royal charter<sup>2</sup>. They may exercise statutory functions<sup>3</sup> or be subject to statutory supervision<sup>4</sup> and most are in receipt of public funds<sup>5</sup>.

Bodies concerned with nature conservation and the environment generally<sup>6</sup>, and with historic buildings and ancient monuments<sup>7</sup>, do not fall within the scope of this title and are discussed

elsewhere in this work<sup>8</sup>. The establishment and functions of the Welsh Language Board are also discussed elsewhere in this work<sup>9</sup>, as are matters relating to the film industry<sup>10</sup>, theatres<sup>11</sup> and broadcasting<sup>12</sup>.

1 Eg the British Library: see PARA 406 et seq post.

2 Eg the Arts Council of England: see PARA 584 post.

3 Eg the Natural Environment Research Council carries out functions under the Science and Technology Act 1965 s 1(3) (as amended): see PARA 471 post. The coverage of institutions and bodies which are neither established nor controlled by statute is necessarily selective. For a more comprehensive list of learned societies in the United Kingdom see *The World of Learning* (47th Edn) (Europa, 1997) p 1464 et seq.

4 See eg the Literary and Scientific Institutions Act 1854; and PARA 477 et seq post.

5 See eg para 608 et seq post.

6 Eg the National Trust and the Broads Authority: see NATIONAL CULTURAL HERITAGE vol 77 (2010) PARA 979 et seq; WATER AND WATERWAYS vol 101 (2009) PARAS 734-736.

7 Eg the National Trust and the Historic Buildings and Monuments Commission for England: see NATIONAL CULTURAL HERITAGE vol 77 (2010) PARAS 803, 979.

8 See generally NATIONAL CULTURAL HERITAGE; TOWN AND COUNTRY PLANNING; WATER AND WATERWAYS.

9 See CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 44.

10 See TRADE AND INDUSTRY vol 97 (2010) PARAS 842-843.

11 See generally LICENSING AND GAMBLING.

12 See generally TELECOMMUNICATIONS AND BROADCASTING.

Halsbury's Laws of England/LIBRARIES AND OTHER SCIENTIFIC AND CULTURAL INSTITUTIONS (VOLUME 28 (REISSUE))/1. INTRODUCTION/402. The Secretary of State.

#### **402. The Secretary of State.**

Matters relating to libraries, museums and other institutions and bodies of a literary, scientific or other cultural nature have historically been under the jurisdiction of various government departments. Over the years, functions have been transferred<sup>1</sup> from minister to minister and today functions are mainly exercised by the Secretary of State for Culture, Media and Sport (formerly known as the Secretary of State for National Heritage)<sup>2</sup> and, for certain matters in relation to Wales, by the Secretary of State for Wales<sup>3</sup>. The Department of Culture, Media and Sport has a policy responsibility within the government for a range of matters including arts, sports, the National Lottery, libraries, museums and galleries, the licensing of cultural goods and the government art collection<sup>4</sup>. The department also sponsors the Millennium Commission<sup>5</sup>. The Department of Culture, Media and Sport (originally known as the Department of National Heritage) was set up in 1992<sup>6</sup> and, on its creation, various functions were transferred to the newly created Secretary of State for National Heritage<sup>7</sup> including a number of functions previously exercised by the Lord President of the Council<sup>8</sup>.

The Secretary of State for Trade and Industry (known as the President of the Board of Trade)<sup>9</sup> exercises functions in relation to the research councils<sup>10</sup>; the Secretary of State for Foreign and Commonwealth Affairs exercises functions in relation to the Commonwealth Institute<sup>11</sup>; and the Secretary of State for Defence exercises functions in relation to certain armed forces museums<sup>12</sup>.

Functions have been transferred from the various ministers originally referred to in the legislation covered in this title to the relevant Secretary of State<sup>13</sup> as follows:

- 1 (1) certain functions previously exercisable by the then Minister of Works (originally styled the Minister for Works and Planning) were transferred via the Minister of Public Building and Works and the Minister of Housing and Local Government to the Secretary of State for the Environment (now known as the Secretary of State for the Environment, Transport and the Regions)<sup>14</sup>;
- 2 (2) certain functions previously exercisable by the Treasury and by the Board of Education were transferred via the then Secretary of State for Education and Science and the Lord President of the Council to the Chancellor of the Duchy of Lancaster, retransferred to the Lord President and thence to the Secretary of State for National Heritage, now known as the Secretary of State for Culture, Media and Sport<sup>15</sup>;
- 3 (3) certain other functions previously exercisable by the then Secretary of State for Education and Science were transferred via the Minister for the Civil Service and the Chancellor of the Duchy of Lancaster to the Secretary of State for Trade and Industry<sup>16</sup>.

1 As to transfer of functions generally see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 363.

2 As to the former Secretary of State for National Heritage see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 499. The Secretary of State became the Secretary of State for Culture, Media and Sport on 14 July 1997 (see Department of Culture, Media and Sport Press Release 178/97, released on that date); but at the date at which this volume states the law, no formal order changing his style and title had been made.

3 As to the Secretary of State for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 45. See also the Civil Service Year Book 1997 col 931 et seq.

4 See the Civil Service Year Book 1997 col 499 et seq; and CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 498-501.

5 See the Civil Service Year Book 1997 col 499; and PARA 599 et seq post.

6 See the Transfer of Functions (National Heritage) Order 1992, SI 1992/1311. As to the change of name see note 2 *supra*.

7 As to the functions transferred from the Secretary of State for the Environment to the Secretary of State for National Heritage see OPEN SPACES AND COUNTRYSIDE vol 78 (2010) PARA 519.

8 The Transfer of Functions (National Heritage) Order 1992, SI 1992/1311, transferred from the Lord President of the Council to the then Secretary of State for National Heritage the following: (1) his function under the Imperial War Museum Act 1920 s 1(2), Schedule para (1) (as substituted and amended) (see PARA 521 post); (2) functions under the deed of 27 February 1981 concerning the Royal Opera House Development Land Trust; (3) functions in relation to the then Arts Council of Great Britain (see now para 583 et seq post), the British Film Institute, the Corporation of the Hall of Arts and Sciences, the Crafts Council (see PARA 587 post), the National Film and Television School, the National Theatre Board, the South Bank Theatre Board, the Museums and Galleries Commission (see PARAS 594-595 post) and the South Bank Board Ltd; (4) the property in chattels vested in him by virtue of the Wellington Museum Act 1947 s 1(2) (as amended) (see PARA 533 post); and (5) functions under, inter alia, the following enactments: (a) the British Museum (Purchase of Land) Act 1894 s 2A (as added and amended) (see PARA 504 post); (b) the Copyright Act 1911 s 15(5) (as amended) (see PARA 416 post); the Imperial War Museum Act 1920 s 2 (as amended) (see PARA 522 post); s 2A (as added) (see PARA 525 post); s 3(2) (as amended) (see PARA 523 post); s 4 (as amended) (see PARA 526 post); and Schedule para 8 (as amended) (see PARA 521 post); (c) the National Maritime Museum Act 1934 ss 2, 4, 5, 6(2) (as amended) (see PARA 528 et seq post); (d) the Public Health Act 1936 s 324 (as amended; and as applied by the Public Libraries and Museums Act 1964 s 10(5) (see PARA 421 post); (e) the Wellington Museum Act 1947 (see PARA 533 et seq post); (f) the Imperial War Museum Act 1955 s 2(1) (as amended) (see PARA 527 post); (g) the British Museum Act 1963 s 1(1)(c) (as amended) (see PARA 502 post); s 8(2)(b) (as amended) (see PARA 503 post); and s 10(2) (as amended) (see PARA 507 post); (h) the Public Libraries and Museums Act 1964 (see PARA 420 et seq, 498 post); (i) the Museum of London Act 1965 (see PARA 537 et seq post); (j) the British Library Act 1972 (see PARA 406 et seq post); (k) the Public Lending Right Act 1979 (see PARA 442 et seq post); (l) the National Heritage Act 1980 (see PARA 616 post); (m) the National Heritage Act 1983 ss 1-15, Sch 1 Pts I, II (as amended) (see PARA 545 et seq post); (n) the Inheritance Tax Act 1984 s 230 (as amended) (see PARA 606 post); (o) the Local Government Act 1985 ss 46, 47 (as amended) (see PARAS 499-500 post); (p) the National Maritime Museum Act 1989 s 1(5), 2(2) (as amended) (see PARAS 528, 530 post); and (q) the Museums and Galleries Act 1992 (see PARA 511 et seq, 613 et seq post): Transfer of Functions (National Heritage) Order 1992, SI 1992/1311, arts 3(1)-(4), 4(2), Sch 1 Pts I, II. The functions of the Minister for the Arts in relation to the Greater Manchester Museum of Science and Industry Trust were also transferred to the Secretary of State for National Heritage, as were the functions of the Secretary of State for the Environment under the royal charter passed under the Great Seal on 4 February 1972 relating to the former Sports Council: see the Transfer of Functions (National Heritage) Order 1992, SI 1992/1311, arts 3(5), 8. As to the English Sports Council and the Sports Council for Wales see PARA 589 post.

In any case where, immediately before 3 July 1992, the Lord President was the trustee of any property and either he was trustee by virtue of the Transfer of Functions (Arts, Libraries and National Heritage) Order 1986, SI 1986/600, art 3(1), or it could reasonably be inferred that he was trustee by reason of his being a Minister of the Crown with responsibility for the arts, the Secretary of State was substituted for the Lord President as trustee of the property: Transfer of Functions (National Heritage) Order 1992, SI 1992/1311, art 4(1).

9 See TRADE AND INDUSTRY vol 97 (2010) PARA 802.

10 The functions formerly exercisable by the Chancellor of the Duchy of Lancaster under the royal charters of: (1) the Biotechnology and Biological Sciences Research Council; (2) the Economic and Social Research Council; (3) the Engineering and Physical Sciences Research Council; (4) the Medical Research Council; (5) the Natural Environment Research Council; (6) the Particle Physics and Astronomy Research Council; and (7) the Council for the Central Laboratory of the Research Councils, were transferred to the Secretary of State for Trade and Industry by the Transfer of Functions (Science) Order 1995, SI 1995/2985, art 3(2). The functions under, inter alia, the Science and Technology Act 1965 s 5(1) (as amended) which were exercisable by the Secretary of State, the Minister for the Civil Service and the Chancellor of the Duchy of Lancaster concurrently, ceased to be exercisable by the Minister for the Civil Service and the Chancellor of the Duchy of Lancaster; and the functions exercisable by the Minister for the Civil Service and the Chancellor of the Duchy of Lancaster concurrently under ss 2, 3, Schs 1, 3 (as amended) were transferred to the Secretary of State: see the Transfer of Functions (Science) Order 1995, SI 1995/2985, art 3(1), (3). As to the research councils see PARA 468 et seq post.

11 See PARA 581 post.

12 See PARA 575 post.

13 In law the office of Secretary of State is one and accordingly many modern statutes refer simply to 'the Secretary of State' without reference to a particular department or ministry. In any enactment, 'Secretary of State' means one of Her Majesty's Principal Secretaries of State: see the Interpretation Act 1978 s 5, Sch 1. As to the office of Secretary of State see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 355.

14 See the Minister of Works Act 1942 s 1(1)(a) (repealed); the Minister of Works (Transfer of Power) (No 1) Order 1945, SR & O 1945/991; the Minister of Works (Change of Style and Title) Order 1962, SI 1962/1549; and the Secretary of State for the Environment Order 1970, SI 1970/1681. The Secretary of State for the Environment became the Secretary of State for the Environment, Transport and the Regions on 16 June 1997 (Department of the Environment Press Release 216/97 (11 June 1997)) but at the date at which this volume states the law, no formal order changing his style and title had been made.

15 See the Education Act 1944 s 2(1); the Secretary of State for Education and Science Order 1964, SI 1964/490; the Transfer of Functions (Cultural Institutions) Order 1965, SI 1965/603; the Transfer of Functions (Arts and Libraries) Order 1979, SI 1979/907; the Transfer of Functions (Arts, Libraries and National Heritage) Order 1981, SI 1981/207; the Transfer of Functions (Arts, Libraries and National Heritage) Order 1983, SI 1983/879; the Transfer of Functions (Arts, Libraries and National Heritage) Order 1984, SI 1984/1814; the Transfer of Functions (Arts, Libraries and National Heritage) Order 1986, SI 1986/600; and the Transfer of Functions (National Heritage) Order 1992, SI 1992/1311.

16 See the Transfer of Functions (Science) Order 1992, SI 1992/1296; the Transfer of Functions (Science) Order 1995, SI 1995/2985; and note 10 *supra*.

## **UPDATE**

### **402 The Secretary of State**

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3, see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

NOTE 2--See now the Secretary of State for Culture, Media and Sport Order 1997, SI 1997/1744.

NOTE 10--Functions of Secretary of State under the Science and Technology Act 1965 s 5(1) (as amended) now exercisable concurrently by the Minister of Agriculture, Fisheries and Food: Transfer of Functions (Scientific Research) Order 1999, SI 1999/2785. As to the powers of the Secretary of State and the National Assembly for Wales in relation to research in the arts and humanities see PARA 476A.

NOTE 14--Transfer of functions order now made: SI 1997/2971.

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#### **403. Charitable institutions.**

Institutions founded for such purposes as the promotion of science, the fine arts, education<sup>1</sup> or public libraries or museums<sup>2</sup> may be charitable, if the necessary element of public benefit is present<sup>3</sup>. An institution may have been founded for a single purpose which, at the time of the institution's foundation, was considered charitable, but which may not be considered to be charitable by a later generation; in such a case, in the absence of a general charitable intention, a gift in perpetuity to the institution would fail<sup>4</sup>.

1 See CHARITIES vol 8 (2010) PARAS 22-27.

2 See CHARITIES vol 8 (2010) PARA 48.

3 See CHARITIES vol 8 (2010) PARA 7; and see eg *Beaumont v Oliveira* (1869) 4 Ch App 309; *Royal Society of London and Thompson* (1881) 17 ChD 407 (societies for improving natural knowledge); *Beaumont v Oliveira* supra (society for the improvement and diffusion of geographical knowledge); *Re Lopes, Bence-Jones v Zoological Society of London* [1931] 2 Ch 130 (society for the advancement of zoology and animal physiology etc); and *Institution of Civil Engineers v IRC* [1932] 1 KB 149, CA (society for the general advancement of mechanical science); cf *Geologists' Association v IRC* (1928) 14 TC 271, CA; *Midland Counties Institution of Engineers v IRC* (1928) 14 TC 285, CA; *Anglo-Swedish Society v IRC* (1931) 47 TLR 295; *IRC v National Book League* [1957] Ch 488, [1957] 2 All ER 644, CA (all bodies primarily of benefit to members, rather than of general public utility). As to the jurisdiction of the Charity Commissioners in respect of institutions of a charitable nature and the property of such institutions see CHARITIES vol 8 (2010) PARA 538 et seq; and as to the jurisdiction of the Secretary of State in that respect see CHARITIES vol 8 (2010) PARA 579.

4 *National Anti-Vivisection Society v IRC* [1948] AC 31 at 74, [1947] 2 All ER 217 at 238, HL, per Simonds LJ. A trust with a political purpose is not, however, charitable: *McGovern v A-G* [1982] Ch 321, [1981] 3 All ER 493.

Halsbury's Laws of England/LIBRARIES AND OTHER SCIENTIFIC AND CULTURAL INSTITUTIONS (VOLUME 28 (REISSUE))/1. INTRODUCTION/404. Tax exemption of charities, scientific research associations and certain museums and bodies.

#### **404. Tax exemption of charities, scientific research associations and certain museums and bodies.**

Income which forms part of the income of a charity<sup>1</sup> or which is applicable to charitable purposes only may be granted exemption from income tax and corporation tax<sup>2</sup> so far as it is applied to charitable purposes only<sup>3</sup>. On a claim in that behalf to the Commissioners of Inland Revenue ('the Board')<sup>4</sup>, such exemption from tax as falls to be allowed in the case of a charity the whole income of which is applied to charitable purposes must be allowed in the case of:

- 4 (1) the trustees of the National Heritage Memorial Fund<sup>5</sup>, the trustees of the British Museum<sup>6</sup> and the trustees of the Natural History Museum<sup>7</sup>;
- 5 (2) an association which has as its object the undertaking of scientific research<sup>8</sup> which may lead to or facilitate an extension of any class or classes of trade<sup>9</sup>, which is approved for this purpose by the Secretary of State<sup>10</sup>, and of which the constitution<sup>11</sup> precludes the direct or indirect payment or transfer to members of any of its income or property by way of dividend, gift, division, bonus or otherwise by way of profit<sup>12</sup>.

Charities and certain heritage bodies are exempt from tax in respect of chargeable gains<sup>13</sup> and inheritance tax<sup>14</sup>.

Whilst there is no general exemption of value added tax for charities and heritage bodies, certain supplies and exports by charities are zero-rated<sup>15</sup>, and educational<sup>16</sup> and health supplies are exempt<sup>17</sup>. Certain supplies of works of art are also exempt<sup>18</sup>. The supply by certain bodies of a right of admission to a museum, art gallery, art exhibition or zoo, or to a theatrical, musical or choreographic performance of a cultural nature is also an exempt supply<sup>19</sup>.

Conveyances, transfers or leases to charitable trustees, or to the Trustees of the National Heritage Memorial Fund, are exempt from stamp duty<sup>20</sup>.

1 For these purposes, 'charity' means any body of persons or trust established for charitable purposes only: Income and Corporation Taxes Act 1988 s 506(1).

2 See *ibid* s 505 (as amended); and INCOME TAXATION vol 23(2) (Reissue) PARA 1177 et seq.

3 See *ibid* s 505(1) (as amended); and INCOME TAXATION vol 23(2) (Reissue) PARA 1177 et seq. As to what are charitable purposes see PARA 403 ante; and CHARITIES vol 8 (2010) PARA 1 et seq.

4 As to the Board see INCOME TAXATION vol 23(1) (Reissue) PARA 31 et seq.

5 As to the National Heritage Memorial Fund see PARA 596 et seq post.

6 As to the British Museum see PARA 501 et seq post.

7 See the Income and Corporation Taxes Act 1988 s 507(1)(a), s 507(1)(c), (d) (added by the Finance Act 1989 s 60(1), (4); amended by the Museums and Galleries Act 1992 s 11(2), Sch 8 para 1(1), (2), (8)); and INCOME TAXATION vol 23(2) (Reissue) PARA 1175. As to the Natural History Museum see PARA 501 et seq post. For the purposes of the definition of covenanted payment to charity (see the Income and Corporation Taxes Act 1988 s 347A(7) (as added)), the bodies mentioned in s 507 (as so added and amended) are each to be treated as a body of persons established for charitable purposes only: s 347A(8) (added by the Finance Act 1995 s 74, Sch 17 Pt II para 4(2)).

8 'Scientific research' means any activities in the fields of natural or applied science for the extension of knowledge: Income and Corporation Taxes Act 1988 s 508(3).

9 'Trade' includes every trade, manufacture, adventure or concern in the nature of trade: *ibid* s 832(1); see further INCOME TAXATION vol 23(1) (Reissue) PARA 105 et seq.

10 *Ibid* s 508(1)(a). The Secretary of State here concerned is the Secretary of State for Trade and Industry: see the Secretary of State for Trade and Industry Order 1970, SI 1970/1537, art 2(2).

11 In the memorandum of association or other similar instrument regulating the association's functions: Income and Corporation Taxes Act 1988 s 508(1)(b).

12 *Ibid* s 508(1)(b). This requirement is not to be deemed not to be complied with by reason only that the instrument does not prevent payment to the members of reasonable remuneration for goods, labour or power supplied, or for services rendered, or reasonable interest for money lent, or of reasonable rent for any premises: s 508(2).

13 See the Taxation of Chargeable Gains Act 1992 s 271(6), (7) (as amended); and CAPITAL GAINS TAXATION vol 5(1) (2004 Reissue) PARA 285. See also ss 256, 257 (as amended); and CAPITAL GAINS TAXATION vol 5(1) (2004 Reissue) PARAS 279-280.

14 See the Inheritance Tax Act 1984 ss 23, 25, 26 (as amended); and INHERITANCE TAXATION vol 24 (Reissue) PARAS 520, 523 et seq. As to the acceptance of property in satisfaction of inheritance tax and the designation of conditionally exempt property see PARA 606 post.

15 See the Value Added Tax Act 1994 s 30(2), Sch 8 Pt II Group 15 (as amended); and VALUE ADDED TAX vol 49(1) (2005 Reissue) PARA 188. Books etc are also zero-rated: see Sch 8 Pt II Group 3; and VALUE ADDED TAX vol 49(1) (2005 Reissue) PARA 177.

16 See *ibid* s 31(1), Sch 9 Pt II Group 6; and VALUE ADDED TAX vol 49(1) (2005 Reissue) PARA 165.

17 See *ibid* Sch 9 Pt II Group 7; and VALUE ADDED TAX vol 49(1) (2005 Reissue) PARA 166.

18 See *ibid* Sch 9 Pt II Group 11; and VALUE ADDED TAX vol 49(1) (2005 Reissue) PARA 170.

19 See *ibid* Sch 9 Pt II Group 13 (as added); and VALUE ADDED TAX vol 49(1) (2005 Reissue) PARA 172.

20 See the Finance Act 1982 s 129 (as amended); and STAMP DUTIES AND STAMP DUTY RESERVE TAX vol 44(1) (Reissue) PARA 1093.

## UPDATE

### **404 Tax exemption of charities, scientific research associations and certain museums and bodies**

TEXT AND NOTES 5-7--Head (1) add 'the National Endowment for Science, Technology and the Arts': 1988 Act s 507(1)(f), added by National Lottery Act 1998 s 24(1). As to the National Endowment for Science, Technology and the Arts see PARA 612A.



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#### **405. Other privileges and exemptions.**

Societies whose purposes entitle them to be regarded as charitable institutions are only liable to pay one fifth of the non-domestic rates which would otherwise be chargeable in respect of property which they occupy, where such property is wholly or mainly used for charitable purposes, and are only liable to pay one fifth of the non-domestic rates which would otherwise be chargeable in respect of property which they own but do not occupy, where it appears that when next used such property will be wholly or mainly used for charitable purposes<sup>1</sup>. Further reduction or remission of the chargeable amount is permissible, where the billing authority so decides, for such societies and for premises owned or occupied by societies which are not established or conducted for profit and whose main objects are charitable or otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts<sup>2</sup>.

Fair and accurate reports of findings or decisions of associations for the purpose of promoting or encouraging the exercise of or interest in art, science, religion or learning may enjoy qualified privilege in proceedings for defamation<sup>3</sup>.

Lotteries for the distribution of works of art or prize money to be expended on their purchase are legal (subject to certain conditions) if promoted by art unions<sup>4</sup>, and statutory provisions enable societies to hold small lotteries which would otherwise be unlawful<sup>5</sup>.

Certain literary, scientific and cultural institutions are exempt, in so far as they are charities, from the requirement of registration under the Charities Act 1993<sup>6</sup>.

1 See the Local Government Finance Act 1988 ss 43(5), (6), 45(5), (6); and RATING AND COUNCIL TAX.

2 See *ibid* ss 47(2)(b), (3), (4), 48 (s 47(3) amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 65); and RATING AND COUNCIL TAX.

3 See the Defamation Act 1996 s 15(1), (2), Sch 1 Pt II para 14(a); and LIBEL AND SLANDER vol 28 (Reissue) PARA 133. At the date at which this volume states the law, s 15, Sch 1 were not in force.

4 See the Art Unions Act 1846 s 1.

5 See LICENSING AND GAMBLING vol 68 (2008) PARA 662.

6 See the Charities Act 1993 s 3(5)(a). The relevant institutions are: (1) the Board of Trustees of the Victoria and Albert Museum; (2) the Board of Trustees of the Science Museum; (3) the Board of Trustees of the Armouries; (4) the Board of Trustees of the Royal Botanic Gardens, Kew; (5) the Board of Trustees of the National Museums and Galleries on Merseyside; (6) the trustees of the British Museum and of the Natural History Museum; (7) the Board of Trustees of the National Gallery; (8) the Board of Trustees of the Tate Gallery; (9) the Board of Trustees of the National Portrait Gallery; (10) the Board of Trustees of the Wallace Collection; (11) the trustees of the Imperial War Museum; (12) the trustees of the National Maritime Museum; (13) any institution which is administered by or on behalf of an institution included in heads (1)-(12) *supra* and established for the general purposes of, or for any special purpose of or in connection with, that institution; (14) any registered society or branch within the meaning of the Friendly Societies Act 1974 (repealed with savings); (15) the Board of Governors of the Museum of London; and (16) the British Library Board: see the Charities Act 1993 s 96(1), Sch 2 paras (k)-(w), (y)-(za); and CHARITIES vol 8 (2010) PARA 315.

#### **UPDATE**

#### **405 Other privileges and exemptions**

NOTE 3--1996 Act s 15, Sch 1 now in force: SI 1999/817.

NOTE 4--Art Unions Act 1846 s 1 repealed: Statute Law (Repeals) Act 2004.

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## **2. LIBRARIES**

### **The National Assembly for Wales; transfer of functions**

As to the transfer of functions to the National Assembly for Wales and the Welsh Ministers, see the introductory note to this title.

## **(1) THE BRITISH LIBRARY**

### **(i) Establishment and Purpose of the Library**

#### **UPDATE**

#### **406-416 Establishment and purpose of the library**

Material relating to this part has been revised and published under the title NATIONAL CULTURAL HERITAGE vol 77 (2010).

Halsbury's Laws of England/LIBRARIES AND OTHER SCIENTIFIC AND CULTURAL INSTITUTIONS  
(VOLUME 28 (REISSUE))/2. LIBRARIES/ (2) OFFENCES RELATING TO LIBRARIES

## **(2) OFFENCES RELATING TO LIBRARIES**

### **UPDATE**

#### **417-418 Offences relating to libraries**

Material relating to this part has been revised and published under the title NATIONAL CULTURAL HERITAGE vol 77 (2010).

Halsbury's Laws of England/LIBRARIES AND OTHER SCIENTIFIC AND CULTURAL INSTITUTIONS  
(VOLUME 28 (REISSUE))/2. LIBRARIES/ (3) THE LOCAL AUTHORITY LIBRARY SERVICE

### **(3) THE LOCAL AUTHORITY LIBRARY SERVICE**

#### **UPDATE**

#### **419-441 The local authority library service**

Material relating to this part has been revised and published under the title NATIONAL  
CULTURAL HERITAGE vol 77 (2010).

Halsbury's Laws of England/LIBRARIES AND OTHER SCIENTIFIC AND CULTURAL INSTITUTIONS (VOLUME 28 (REISSUE))/2. LIBRARIES/ (4) PUBLIC LENDING RIGHT/ (i) The Legislation/442. The Public Lending Right Act 1979 and the public lending right scheme.

## **(4) PUBLIC LENDING RIGHT**

### **(i) The Legislation**

#### **442. The Public Lending Right Act 1979 and the public lending right scheme.**

The Public Lending Right Act 1979 provides that, in accordance with a scheme to be known as the public lending right scheme ('the scheme')<sup>1</sup>, there is conferred on authors<sup>2</sup> a right, known as public lending right, to receive from time to time out of a central fund<sup>3</sup> payment in respect of loans of their books<sup>4</sup> to the public by local library authorities<sup>5</sup> in the United Kingdom<sup>6</sup>. The 1979 Act came into force on 1 March 1980<sup>7</sup>. The classes, descriptions and categories of books in respect of which public lending right subsists, and the scales of payments to be made from the central fund in respect of it, are determined by or in accordance with the scheme<sup>8</sup>. Provision must be made by the scheme for the right:

- 6 (1) to be established by registration<sup>9</sup>;
- 7 (2) to be transmissible by assignment or assignation, by testamentary disposition or by operation of law as personal or movable property<sup>10</sup>;
- 8 (3) to be claimed by or on behalf of the person for the time being entitled<sup>11</sup>; and
- 9 (4) to be renounced<sup>12</sup>, either in whole or in part, and either temporarily or for all time, on notice being given to the Registrar of Public Lending Right<sup>13</sup> to that effect<sup>14</sup>.

As soon as possible after 1 March 1980, a draft scheme was to be prepared and a copy of the draft laid before each House of Parliament<sup>15</sup>. The draft scheme was to be approved by a resolution of each House and brought into force (in the form of the draft) by means of an order in a statutory instrument, to be laid before Parliament after it was made<sup>16</sup>.

The scheme must be so framed as to make entitlement to public lending right dependent on, and its extent ascertainable by reference to, the number of occasions on which books are lent out from particular libraries<sup>17</sup>, to be specified by the scheme or identified in accordance with provision made by it<sup>18</sup>. The scheme may provide for requiring local library authorities:

- 10 (a) to give information as and when, and in the form in which, the registrar may call for it or the Secretary of State may direct, as to loans made by them to the public of books in respect of which public lending right subsists, or of other books; and
- 11 (b) to arrange for books to be numbered, or otherwise marked or coded, with a view to facilitating the maintenance of the register and the ascertainment and administration of public lending right<sup>19</sup>.

The scheme may<sup>20</sup> be varied from time to time by the Secretary of State, after consultation with representatives of authors and library authorities, and of others who appear to be likely to be affected by it<sup>21</sup>, and the variation may be brought into force by an order in a statutory instrument, subject to annulment in pursuance of a resolution of either House of Parliament<sup>22</sup>.

The Secretary of State must in each year prepare and lay before each House of Parliament a report on the working of the scheme<sup>23</sup>.

The scheme came into force between 14 June 1982 and 1 July 1983<sup>24</sup> and has since been varied by statutory instrument on numerous occasions<sup>25</sup>.

Subject to any provision made by the scheme, the duration of public lending right in respect of a book is from the date of the book's first publication (or, if later, the beginning of the year in which application is made for it to be registered) until 70 years have elapsed since the end of the year in which the author died<sup>26</sup>.

1 The scheme was originally to be prepared and brought into force by the then Secretary of State for Education and Science (see the Public Lending Right Act 1979 s 1(1) (as originally enacted)); and is now the responsibility of the Secretary of State for Culture, Media and Sport (formerly known as the Secretary of State for National Heritage) (see s 1(1) (amended by the Transfer of Functions (National Heritage) Order 1992, SI 1992/1311, art 3(1), Sch 1 Pt I)). As to the Secretary of State see PARA 402 ante.

2 As to the meaning of 'author' see PARA 446 post.

3 As to the central fund see PARA 445 post.

4 As to eligible books see PARA 447 post.

5 For these purposes, in England and Wales 'local library authority' means a library authority under the Public Libraries and Museums Act 1964 (see PARA 432 ante); Public Lending Right Act 1979 s 5(2).

6 Ibid s 1(1) (as amended: see note 1 supra).

7 See ibid s 5(3); and the Public Lending Right Act 1979 (Commencement) Order 1980, SI 1980/83.

8 Public Lending Right Act 1979 s 1(2). In preparing the scheme the then Secretary of State for Education and Science was to consult with representatives of authors and library authorities and of others who appeared likely to be affected by it: s 1(2) (as originally enacted).

9 Ibid s 1(7)(a); and see PARA 448 et seq post.

10 Ibid s 1(7)(b); and see PARA 452 et seq post.

11 Ibid s 1(7)(c); and see PARA 462 post.

12 See ibid s 1(7)(d); and PARA 456 post.

13 As to the registrar see PARA 444 post.

14 Public Lending Right Act 1979 s 1(7).

15 See ibid s 3(1) (as originally enacted).

16 See ibid s 3(2) (as originally enacted). The order might provide for different provisions of the scheme to come into force on different dates: s 3(2); and see the text and note 24 infra.

17 For this purpose, 'library': (1) means any one of a local library authority's collections of books held by that authority for the purpose of being borrowed by the public; and (2) includes any such collection which is taken about from place to place: ibid s 3(4).

18 Ibid s 3(3).

19 Ibid s 3(5) (s 3 amended by the Transfer of Functions (National Heritage) Order 1992, SI 1992/1311, art 3(1), Sch 1 Pt I).

20 Ie subject to the provisions of the Public Lending Right Act 1979 and in particular to s 3(1)-(6) (as amended): s 3(7).

21 Ie such consultation as is mentioned in ibid s 1(2) (amended by the Transfer of Functions (National Heritage) Order 1992, SI 1992/1311, art 3(1), Sch 1 Pt I): see note 8 supra.

22 Public Lending Right Act 1979 s 3(7) (as amended: see note 19 supra). The variation may comprise such incidental and transitional provisions as the Secretary of State thinks appropriate for the purposes of continuing the scheme as varied: s 3(7) (as so amended).

23 Ibid s 3(8) (as amended: see note 19 supra).

24 See the Public Lending Right Scheme 1982 (Commencement) Order 1982, SI 1982/719, art 2.

25 See the Public Lending Right Scheme 1982 (Amendment) Orders 1983, SI 1983/480; 1984, SI 1984/1847; 1985, SI 1985/1581; 1986, SI 1986/2103; the Public Lending Right Scheme 1982 (Amendment) (No 2) Order 1983, SI 1983/1688; the Public Lending Right Scheme 1982 (Commencement of Variations) Orders 1988, SI 1988/2070; 1989, SI 1989/2188; 1990, SI 1990/2360; 1991, SI 1991/2618; 1992, SI 1992/3049; 1993, SI 1993/3049; 1996, SI 1996/1338; 1996, SI 1996/3237; and 1997, SI 1997/1576; and the Insolvency (Amendment of Subordinate Legislation) Order 1986, SI 1986/2001. Amendments to the scheme made by those instruments are noted where relevant in PARA 444 et seq post.

26 Public Lending Right Act 1979 s 1(6); Public Lending Right Scheme 1982 art 20 (amended by SI 1997/1576). The year for the purposes of this provision is the 'sampling year' for the purposes of the scheme: see the Public Lending Right Scheme 1982 art 20 (as so amended); and PARAS 452, 457 note 11 post. As to citation of the Public Lending Right Scheme 1982 see PARA 446 note 2 post.

## **UPDATE**

### **442 The Public Lending Right Act 1979 and the public lending right scheme**

NOTE 25--1982 Scheme further amended: SI 1998/1218, SI 1999/420, SI 1999/3304, SI 2000/933, SI 2000/3319, SI 2001/3984, SI 2002/3123, SI 2003/3045, SI 2004/1258, SI 2004/3128, SI 2005/1519, SI 2005/3351, SI 2006/3294.



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#### **443. The rental right and lending right directive.**

The EC Council directive of 19 November 1992 on rental and lending right related to copyright in the field of intellectual property<sup>1</sup> requires member states to provide a right to authorise or prohibit the rental and lending of originals and copies of copyright works and other subject matter<sup>2</sup>. 'Rental' means making available for use for a limited period of time and for direct or indirect economic or commercial advantage<sup>3</sup>; and 'lending' means making available for use for a limited period of time and not for direct or indirect economic or commercial advantage through establishments which are accessible to the public<sup>4</sup>. Member states may derogate from this right in respect of public lending provided that authors obtain a remuneration and they are free to determine the remuneration taking account of the state's cultural promotion objectives<sup>5</sup>. Certain categories of establishments may be exempted by member states from the payment of remuneration<sup>6</sup>. The directive applies in respect of all copyright works, performances, phonograms, broadcasts and first fixation of films which are, on 1 July 1994, protected in the field of copyright and related rights or on that date meet the criteria for protection under the provisions of the directive<sup>7</sup>. The right belongs, respectively, to the author in respect of the original and copies of his work, the performer, the phonogram producer and the producer of the first fixation of a film in respect of the original and copies of his film<sup>8</sup>. The right is an exclusive right to authorise or prohibit rental and lending and may be transferred, assigned or subject to the granting of contractual licences<sup>9</sup>. Where an author or performer has transferred or assigned his rental right concerning a phonogram or an original or copy of a film to a phonogram or film producer, that author or performer retains the right to obtain an equitable remuneration for the rental; that right cannot be waived<sup>10</sup>. The administration of the right to obtain an equitable remuneration may be entrusted to collecting societies representing authors or performers, subject to regulation by member states<sup>11</sup>. Member states are to bring into force laws regulations and administrative provisions to comply with the directive not later than 1 July 1994<sup>12</sup> save that member states may determine the date as from which the exclusive right to authorise or prohibit lending or rental is to apply and the date as from which the unwaivable right to an equitable remuneration concerning a phonogram or film is to apply, provided that, in both cases, the date is no later than 1 July 1997<sup>13</sup>. Provision is made for the directive not to have retrospective effect<sup>14</sup>.

The rental right and lending right directive has been implemented in the United Kingdom by the Copyright and Related Rights Regulations 1996, which came into force on 1 December 1996<sup>15</sup>. The 1996 regulations provide, inter alia, that copyright in a work of any description is not infringed by the lending of a book by a public library if the book is within the public lending right scheme<sup>16</sup>.

1 See EC Council Directive 92/100 (OJ L 346, 27.11.92, p 61) (amended by EC Council Directive 93/98 (OJ L 290, 24.11.93, p 9) so as to extend the duration of copyright and related rights from the period of the author's life plus 50 years to the period of the author's life plus 70 years). As to copyright and intellectual property see generally the Copyright, Designs and Patents Act 1988; the Duration of Copyright and Rights in Performances Regulations 1995, SI 1995/3297; and COPYRIGHT, DESIGN RIGHT AND RELATED RIGHTS.

2 EC Council Directive 92/100 (OJ L 346, 27.11.92, p 61) art 1(1).

3 Ibid art 1(2).

4 Ibid art 1(3).

- 5 Ibid art 5(1).
- 6 Ibid art 5(3).
- 7 Ibid art 13(1).
- 8 Ibid art 2(1).
- 9 Ibid art 2(4).
- 10 Ibid art 4(1), (2).
- 11 See ibid art 4(3), (4).
- 12 Ibid art 15(1).
- 13 See ibid art 13(5), (8).
- 14 See ibid art 13(2), (4), (6). Article 13 also contains transitional arrangements. Cf, however, Sweeting 'Frustrated Windfall: Rental Rights, Lending Rights and Equitable Remuneration' (1997) 15 International Media Law 44.
- 15 See the Copyright and Related Rights Regulations 1996, SI 1996/2967, regs 1(2), 3.
- 16 See the Copyright, Designs and Patents Act 1988 s 40A(1) (s 40A added by the Copyright and Related Rights Regulations 1996, SI 1996/2967, reg 11(2)). Nor is copyright in a work infringed by the lending of copies of the work by a prescribed library or archive, other than a public library, which is not conducted for profit: Copyright Designs and Patents Act 1988 s 40A(2) (as so added). A book is within the public lending right scheme for this purpose if it is a book within the meaning of the provisions of the scheme relating to eligibility, whether or not it is in fact eligible: s 40A(1)(a) (as so added). For these purposes, 'public library' means a library administered, in England and Wales, by a library authority within the meaning of the Public Libraries and Museums Act 1964 (see PARA 432 ante); Copyright Designs and Patents Act 1988 s 40A s 178 (definition added by the Copyright and Related Rights Regulations 1996, SI 1996/2967, reg 11(5)). As to the public lending right scheme see PARAS 442 ante, 444 et seq post; and for the meaning of 'eligible book' see PARA 447 post. For transitional provisions relating to the libraries and archives prescribed for these purposes see reg 35 (applying the Copyright (Librarians and Archivists) (Copying of Copyright Material) Regulations 1989, SI 1989/1212, reg 3(1), Sch 1 Pt A paras 2-6); and COPYRIGHT, DESIGN RIGHT AND RELATED RIGHTS.

## UPDATE

### 443 The rental right and lending right directive

NOTE 1--Directive 93/98 repealed and replaced: European Parliament and EC Council Directive 2006/116 (OJ L372, 27.12.2006, p 12).

NOTE 9--The holder of an exclusive rental right is entitled to prohibit copies of a film from being offered for rental in a member state, even where those copies for rental have been authorised within another member state: Case C-61/97 *Egmont Film A/S v Laserdisken* [1999] 1 All ER (EC) 366, ECJ.

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## **(ii) Administration of the Scheme; in general**

### **444. The Registrar of Public Lending Right.**

The Secretary of State<sup>1</sup> must appoint an officer to be known as the Registrar of Public Lending Right<sup>2</sup> who holds and vacates office as such in accordance with the terms of his appointment<sup>3</sup>. He may at any time resign his office by notice in writing addressed to the Secretary of State; and the Secretary of State may at any time remove a person from the office of registrar on the ground of incapacity or misbehaviour<sup>4</sup>.

There must be paid to the registrar out of money provided by Parliament such remuneration and allowances as the Secretary of State may determine with the approval of the Treasury<sup>5</sup>. In the case of any such holder of the office of registrar as may be determined by the Secretary of State with that approval, there must be paid out of money so provided such pension, allowance or gratuity to or in respect of him, or such contributions or payments towards provision of such a pension, allowance or gratuity, as may be so determined<sup>6</sup>.

The Registrar of Public Lending Right is a corporation sole by that name, with a corporate seal<sup>7</sup>. He is not to be regarded as the servant or agent of the Crown<sup>8</sup>.

The registrar may appoint such assistant registrars and staff as he thinks fit, subject to the approval of the Secretary of State as to their numbers; and their terms and conditions of service, and the remuneration and allowances payable to them, must be such as the registrar may determine<sup>9</sup>. The registrar may direct, in the case of persons so appointed by him:

- 12 (1) that there be paid to and in respect of them such pensions, allowances and gratuities as he may determine;
- 13 (2) that payments be made towards the provision for them of such pensions, allowances and gratuities as he may determine; and
- 14 (3) that schemes be provided and maintained (whether contributory or not) for the payment to and in respect of them of such pensions, allowances and gratuities as he may determine<sup>10</sup>.

Anything authorised or required<sup>11</sup> to be done by the registrar may be done by any assistant registrar or member of the registrar's staff who is authorised generally or specially in that behalf in writing by the registrar<sup>12</sup>.

The registrar is charged with the duty of establishing and maintaining in accordance with the public lending right scheme a register showing the books<sup>13</sup> in respect of which public lending right subsists and the persons entitled to the right in respect of any registered book<sup>14</sup>. In the case of any registered book, he must determine in accordance with the scheme the sums (if any) due by way of public lending right; and any sum so determined to be due is recoverable from the registrar as a debt due to the person for the time being entitled to that right in respect of the book<sup>15</sup>. He must, by means of payments out of the central fund, reimburse to local library authorities<sup>16</sup> any expenditure incurred by them in giving effect to the scheme, the amount of that expenditure being ascertained in accordance with such calculations as the scheme may prescribe<sup>17</sup>.

The principal duties of the registrar under the scheme are to:

- 15 (a) establish and maintain a register of those books in respect of which the public lending right subsists and of those persons entitled to the right<sup>18</sup>;
- 16 (b) determine whether application is made in respect of an eligible book<sup>19</sup>;
- 17 (c) determine whether an applicant is an eligible person for the purposes of the scheme<sup>20</sup>;
- 18 (d) determine issues relating to shares in a public lending right<sup>21</sup>;
- 19 (e) decide whether he is satisfied on applications for registration, or in respect of dealings in the right that an application is properly made<sup>22</sup>;
- 20 (f) amend the register in appropriate circumstances as specified in the regulations<sup>23</sup>;
- 21 (g) determine whether entries should be removed from the register<sup>24</sup>;
- 22 (h) supply copies of register entries<sup>25</sup>;
- 23 (i) determine the sums due and make payment to authors under the scheme<sup>26</sup>;
- 24 (j) keep proper accounts and records and prepare in respect of each financial year statements of account to be submitted to the Comptroller and Auditor General who must examine and certify the statements and lay copies thereof, together with his report thereon, before Parliament<sup>27</sup>;
- 25 (k) designate operative sampling points for the purposes of the scheme<sup>28</sup>;
- 26 (l) reimburse local library authorities for the net expenditure incurred by them in giving effect to the scheme<sup>29</sup>.

1 As to the Secretary of State see PARA 402 ante.

2 Public Lending Right Act 1979 s 1(3) (s 1, Schedule amended by the Transfer of Functions (National Heritage) Order 1992, SI 1992/1311, art 3(1), Sch 1 Pt I).

3 Public Lending Right Act 1979 s 1(3), Schedule para 1 (as amended: see note 2 supra).

4 Ibid Schedule para 1 (as amended: see note 2 supra).

5 Ibid Schedule para 2(1) (as amended: see note 2 supra; further amended by the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981, SI 1981/1670, art 2).

6 Public Lending Right Act 1979 Schedule para 2(2) (as amended: see note 2 supra). If, when a person ceases to hold office as registrar, it appears to the Secretary of State that there are special circumstances which make it right that he should receive compensation, there may (with the approval of the Treasury) be paid to him out of the central fund a sum by way of compensation of such amount as may be so determined: Schedule para 2(3) (as so amended). As to the central fund see PARA 445 post.

7 Ibid Schedule para 5(1).

8 Ibid Schedule para 5(2). He is disqualified for membership of the House of Commons: see the House of Commons Disqualification Act 1975 (Reprint No 15) s 1(1)(f), Sch 1 Pt III; and PARLIAMENT vol 78 (2010) PARA 908.

9 Public Lending Right Act 1979 Schedule para 7(1) (as amended: see note 2 supra). The approval of the Secretary of State and the Treasury is required for any determination or direction under these provisions by the registrar: Schedule para 7(4) (as amended: see note 5 supra).

10 Ibid Schedule para 7(2). See also note 9 supra. Any money required for the payment of such remuneration and allowances, and of pensions, allowances and gratuities, and otherwise for these purposes, must be paid from the central fund: Schedule para 7(3).

11 Ie under the Public Lending Right Act 1979 (except under Schedule para 7 (as amended)) or under the public lending right scheme: Schedule para 8. As to the scheme see PARA 446 et seq post.

12 Ibid Schedule para 8. The Documentary Evidence Act 1868 has effect as if the registrar were included in the first column of the Schedule to that Act, as if the registrar and any person authorised to act on his behalf were mentioned in the second column of that Schedule, and as if the regulations referred to in that Act included any documents issued by the registrar or by any such person: Public Lending Right Act 1979 Schedule para 6.

13 As to the meaning of 'book' see PARA 447 post.

14 Public Lending Right Act 1979 s 1(4).

15 Ibid s 1(5).

16 For the meaning of 'local library authority' see PARA 432 ante; and as to the application of this definition see PARA 442 note 5 ante.

17 Public Lending Right Act 1979 s 3(6).

18 See PARA 448 post.

19 See PARA 447 post.

20 See PARA 446 post.

21 See PARA 449 post.

22 See PARA 450 post.

23 See PARA 451 post.

24 See PARAS 448, 456 post.

25 See PARA 448 post.

26 See PARA 461 post.

27 See PARA 445 post.

28 See PARA 457 post.

29 See PARA 460 post.

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#### **445. The central fund.**

The central fund must be constituted by the Secretary of State<sup>1</sup> and placed under the control and management of the Registrar of Public Lending Right<sup>2</sup>. There must be paid into the fund from time to time such sums, out of money provided by Parliament, as the Secretary of State with Treasury approval determines to be required for the purpose of satisfying the liabilities of the fund; but in respect of the liabilities of any one financial year<sup>3</sup> of the fund the total of those sums must not exceed £5 million<sup>4</sup> less the total of any sums paid in that year, out of money so provided, under the statutory provisions<sup>5</sup> relating to the registrar's pay and pension and allied matters<sup>6</sup>.

There must be paid out of the central fund:

- 27 (1) such sums as may in accordance with the scheme be due from time to time in respect of public lending right<sup>7</sup>; and
- 28 (2) the administrative expenses of the registrar and any other expenses and outgoings mentioned in the Public Lending Right Act 1979 which are expressed to be payable from the fund<sup>8</sup>.

Money received by the registrar in respect of property disposed of, or otherwise in the course of his functions, or under the statutory provisions relating to public lending right<sup>9</sup>, must be paid into the central fund, except in such cases as the Secretary of State otherwise directs with the approval of the Treasury; and in any such case the money must be paid into the Consolidated Fund<sup>10</sup>.

The registrar must keep proper accounts and other records and must prepare in respect of each financial year of the fund statements of account in such form as the Secretary of State may direct with Treasury approval; and those statements must, on or before 31 August next following the end of that year, be transmitted to the Comptroller and Auditor General, who must examine and certify the statements and lay copies of them, together with his report on them, before each House of Parliament<sup>11</sup>.

1 As to the Secretary of State see PARA 402 ante.

2 Public Lending Right Act 1979 s 2(1) (s 2 amended by the Transfer of Functions (National Heritage) Order 1992, SI 1992/1311, art 3(1), Sch 1 Pt I).

3 For the meaning of 'financial year' see PARA 413 note 4 ante.

4 With the consent of the Treasury, the Secretary of State may from time to time by order in a statutory instrument increase the limit on the sums to be so paid in respect of financial years beginning after that in which the order is made; but no such order may be made unless a draft of it has been laid before the House of Commons and approved by a resolution of that House: Public Lending Right Act 1979 s 2(3) (as amended: see note 2 supra). In exercise of this power the Secretary of State has made the Public Lending Right (Increase of Limit) Order 1993, SI 1993/799, which increased the limit to the sum set out in the text.

5 I.e. the Public Lending Right Act 1979 s 1(3), Schedule para 2 (as amended): see PARA 444 ante.

6 Ibid s 2(2) (as amended: see notes 2, 4 supra).

7 As to payment under the public lending right scheme see PARAS 461-463 post; and as to the establishment of the scheme see PARA 442 ante.

8 Public Lending Right Act 1979 s 2(4).

9 le the Public Lending Right Act 1979: see PARA 442 et seq ante, 448 et seq post.

10 Ibid s 2(5) (as amended: see note 2 supra). As to the Consolidated Fund see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 711.

11 Ibid s 2(6) (as amended: see note 2 supra). As to the Comptroller and Auditor General see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 724-726. As to laying documents before Parliament see PARLIAMENT vol 34 (Reissue) PARA 941.

## **UPDATE**

### **445 The central fund**

TEXT AND NOTE 4--The total has been increased to £14.252 million for the financial year 2003/2004 and to £8 million for subsequent financial years: SI 2003/839.

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### **(iii) Books and Authors Eligible under the Public Lending Right Scheme**

#### **446. Eligible authors.**

A person is treated as an author of a book for the purpose of the public lending right scheme<sup>1</sup> if he is either:

- 29 (1) a writer of the book, including (without prejudice to the generality of that expression) (a) a translator and an editor or (b) a compiler of it, who in either case has contributed more than 10 per cent of the contents of the book or more than ten pages of the contents, whichever is the less, or who is entitled to a royalty payment from the publisher in respect of the book<sup>2</sup>; or
- 30 (2) an illustrator of it, which for this purpose includes the author of a photograph<sup>3</sup>.

Notwithstanding the above provisions, a person is not to be treated as an author of a book unless the fact that he is an author<sup>4</sup>:

- 31 (i) is evidenced by his being named on the title page of the book; or
- 32 (ii) is evidenced by his entitlement to a royalty payment from the publisher in respect of the book; or
- 33 (iii) in the case of a book without a title page, is evidenced either by his being named elsewhere in the book and in the view of the Registrar of Public Lending Right<sup>5</sup> his contribution to the book was such that he would have merited a mention on the title page had there been one, or by his entitlement to a royalty payment from the publisher in respect of the book; or
- 34 (iv) is evidenced by a statement, signed by all the other authors of the book in respect of whom the fact that they are authors of the book is evidenced in accordance with heads (i) to (iii) above, that his contribution to the book was such that it is appropriate that he should be treated as an author of the book and the registrar is satisfied that it is appropriate so to treat him<sup>6</sup>.

For the purposes of the scheme, and in relation to each application<sup>7</sup> by a person relating to an eligible book<sup>8</sup>, the applicant is an eligible person if he is an author of that book who at the date of the application has his only or principal home<sup>9</sup> in one of the specified countries<sup>10</sup> or, if he has no home, has been present in one of those countries for not less than 12 months out of the preceding 24 months<sup>11</sup>. In relation to each application relating to a posthumously eligible book<sup>12</sup>, an author who is dead is a posthumously eligible person if, had he been an applicant for first registration of public lending right in relation to that book at the date of his death, he would have been an eligible person<sup>13</sup>. If the author is not of full age, he may be an eligible person but in such a case application must be made by his parent or guardian<sup>14</sup>.

1 As to the establishment of the public lending right scheme see PARA 442 ante. For the meaning of 'book' see PARA 447 post.

2 Public Lending Right Scheme 1982 (Commencement) Order 1982, SI 1982/719, art 2, Appendix, arts 2(1), 4(1)(a) (substituted by SI 1990/2360, Appendix; amended by SI 1991/2618, Appendix). The scheme may be



cited as the Public Lending Right Scheme 1982 (art 2) and is so cited in this title, the citation being of the scheme as set out in SI 1990/2360 which incorporates all amendments in force on 27 December 1990; subsequent amendments only are noted. For a full list of all the amending instruments see PARA 442 note 25 ante.

3 Public Lending Right Scheme 1982 arts 2(1), 4(1)(b) (amended by SI 1997/1576).

4 Ie an author within the meaning of heads (1)-(2) in the text: Public Lending Right Scheme 1982 art 2(1).

5 As to the registrar see PARA 444 ante.

6 Public Lending Right Scheme 1982 art 4(2) (amended by SI 1991/2618).

7 As to applications see PARA 450 post.

8 For the meaning of 'eligible book' see PARA 447 post.

9 'Principal home', in the case of a person having more than one home, means that one of those homes at which he has been for the longest aggregate period during the 24 months immediately preceding the application for registration: Public Lending Right Scheme 1982 art 5(2).

10 The specified countries are the Federal Republic of Germany and the United Kingdom: *ibid* art 5(1), Sch 5. For the meaning of 'United Kingdom' see PARA 406 note 2 ante.

11 *Ibid* art 5(1).

12 For the meaning of 'posthumously eligible book' see PARA 447 post.

13 Public Lending Right Scheme 1982 art 5A.

14 See *ibid* art 17(3); and PARA 450 note 4 post.

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#### **447. Eligible books.**

For the purposes of the public lending right scheme<sup>1</sup>, an eligible book is a book the sole author<sup>2</sup>, or at least one of the authors, of which is an eligible person<sup>3</sup>; and there must be treated as a separate book:

- 35 (1) each volume of a work published in two or more volumes; and
- 36 (2) each new edition of a book<sup>4</sup>.

'Book' means a printed and bound publication (including a paper-back edition) but does not include:

- 37 (a) a book bearing, in lieu of the name of an author who is a natural person, the name of a body corporate or an unincorporated association;
- 38 (b) a book which is wholly or mainly a musical score;
- 39 (c) a book the copyright of which is vested in the Crown;
- 40 (d) a book which has not been offered for sale to the public;
- 41 (e) a serial publication including, without prejudice to the generality of that expression, a newspaper, magazine, journal or periodical; or
- 42 (f) a book in respect of which an application for first registration<sup>5</sup> of public lending right has not been made before 30 June 1991 and which does not have an International Standard Book Number<sup>6</sup>.

A book is a posthumously eligible book for the purposes of the scheme if it is a book within the meaning of the above provision, the sole author, or at least one of the authors, of the book is a posthumously eligible person<sup>7</sup>, and the book is either:

- 43 (i) published within one year before or ten years after the date of that person's death and that person had made a successful application during his lifetime for registration of public lending right or of an eligible author's share of the right in respect of at least one other book; or
- 44 (ii) a book which consists of or incorporates a work of that person which had previously been the constituent of or incorporated in a book in relation to which that person had made such an application<sup>8</sup>.

1 As to the establishment of the scheme see PARA 442 ante.

2 For the meaning of 'author' see PARA 446 ante.

3 For the meaning of 'eligible person' see PARA 446 ante.

4 Public Lending Right Scheme 1982 art 6(1). As to citation of the Public Lending Right Scheme 1982 see PARA 446 note 2 ante.

5 As to applications for registration see PARA 450 post.

6 Public Lending Right Scheme 1982 art 6(2) (amended by SI 1991/2618).

7 For the meaning of 'posthumously eligible person' see PARA 446 ante.

8 Public Lending Right Scheme 1982 art 6A.

**UPDATE**

**447 Eligible books**

TEXT AND NOTE 6--For head (f) now read 'a book which does not have an international standard book number' 1982 Scheme art 6(2) further amended by SI 1999/420.

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## **(iv) Registration of Public Lending Right**

### **448. The register.**

The Registrar of Public Lending Right<sup>1</sup> must establish and maintain a public lending right register at such place as the Secretary of State<sup>2</sup> may from time to time determine, and upon each such determination notice must be published in the London Gazette, the Edinburgh Gazette and the Belfast Gazette, of that place and the time of the commencement of registration at it<sup>3</sup>. The register must be kept in the prescribed<sup>4</sup> form, and must contain the prescribed particulars of books and their authors<sup>5</sup>.

The registrar must also keep at the registry an index<sup>6</sup> whereby all entries in the register can readily be traced<sup>7</sup>.

No application for an entry in the register is to be entertained in the case of any book unless it falls within a class, description or category of books prescribed as one in respect of which public lending right subsists<sup>8</sup>.

The scheme must provide for the register to be conclusive both as to whether public lending right subsists in respect of a particular book and also as to the persons (if any) who are for the time being entitled to the right<sup>9</sup>. Provision must be included in the scheme for entries in the register to be made and amended, on application made in the prescribed manner and supported by prescribed particulars (verified as prescribed) so as to indicate in the case of any book who, if anyone, is for the time being entitled to public lending right in respect of it<sup>10</sup>.

The registrar may direct the removal from the register of every entry relating to a book in whose case no sum has become due by way of public lending right for a period of at least 10 years, but without prejudice to a subsequent application for the entries to be restored to the register<sup>11</sup>.

The registrar may require the payment of fees, according to prescribed scales and rates, for supplying copies of entries in the register<sup>12</sup>; and a copy of an entry, certified under the hand of the registrar or an officer of his with authority in that behalf<sup>13</sup> is admissible in evidence in all legal proceedings as of equal validity with the original<sup>14</sup>.

No public lending right in respect of a particular book subsists and no transmission of a registered interest is effective until the right or transmission has been entered in the register by the registrar<sup>15</sup>. Public lending right in respect of a book may, and may only, be registered if the book is an eligible book<sup>16</sup> or a posthumously eligible book<sup>17</sup> and, in either case, application in that behalf is made in the prescribed form and manner<sup>18</sup>.

1 As to the registrar see PARA 444 ante.

2 As to the Secretary of State see PARA 402 ante.

3 Public Lending Right Scheme 1982 art 7. The place at which the register is for the time being so maintained is known as 'the registry': see art 2(1). As to citation of the Public Lending Right Scheme 1982 see PARA 446 note 2 ante.

4 'Prescribed' means prescribed by the scheme: Public Lending Right Act 1979 s 5(2).

5 Ibid s 4(1). The register must contain: (1) particulars of each book in respect of which public lending right subsists, including (a) the title of the book; (b) the name or names of the persons appearing on the title page as the authors thereof; (c) the true identity of an author if different from head (b) supra; (d) a number for that book determined by, or in accordance with arrangements made by, the registrar; and (2) the name and address of each person entitled to the right in respect of each such book and, if more than one, the share of each such person in that right: Public Lending Right Scheme 1982 art 8(1). As to shares in the right see PARA 449 post.

6 For this purpose 'index' includes any device or combination of devices serving the purpose of an index: ibid art 8(2).

7 Ibid art 8(2).

8 Public Lending Right Act 1979 s 4(2).

9 Ibid s 4(3); and see the Public Lending Right Scheme 1982 art 11.

10 Public Lending Right Act 1979 s 4(4). See PARA 451 post.

11 Ibid s 4(5). Where the registrar makes such a direction, any subsequent application for the entry to be restored to the register may be made only by the person who, at the date of the removal of the entry, was the registered owner, or by his legal personal representatives: Public Lending Right Scheme 1982 art 34. 'Registered owner' means the person for the time being shown on the register as the person to whom an interest in public lending right in respect of a particular book belongs: art 2(1).

12 Public Lending Right Act 1979 s 4(6). The registrar must not supply a copy of any entry in the register otherwise than to: (1) a registered owner, as regards any entry which relates to his registered interest; or (2) such other person as the registered owner may direct, but if the entry in question also relates to other registered owners, only with the consent of all such owners: Public Lending Right Scheme 1982 art 35(1). The registrar may require a payment of a fee for supplying a copy of an entry in the register, not exceeding £5 in respect of each such entry: art 35(2). 'Registered interest' means the interest (being the whole or a share thereof), in the public lending right in respect of a particular book, shown on the register as belonging to a particular person: art 2(1).

13 It is unnecessary to prove the registrar's authority: Public Lending Right Act 1979 s 4(6).

14 Ibid s 4(6). As to offences connected with the register see PARA 464 post.

15 Public Lending Right Scheme 1982 art 10.

16 For the meaning of 'eligible book' see PARA 447 ante.

17 For the meaning of 'posthumously eligible book' see PARA 447 ante.

18 Public Lending Right Scheme 1982 art 9(1). See further PARA 450 post.

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#### **449. Shares in public lending right.**

An eligible person's<sup>1</sup> registered share of public lending right in respect of a book of which he is author<sup>2</sup> is the whole of that right or, where a book has two or more authors (including any who are not eligible persons), such share of the public lending right as may be specified<sup>3</sup> in the application for first registration of the right<sup>4</sup>.

A translator's share of public lending right in respect of a book is 30 per cent of that right, or if there is more than one translator (including any who are not eligible persons), an equal share of 30 per cent<sup>5</sup>.

An editor's or compiler's share of public lending right in respect of a book is:

- 45 (1) 20 per cent of that right; or
- 46 (2) if he satisfies the Registrar of Public Lending Right<sup>6</sup> that he has contributed more than 20 per cent of the contents of the book, the percentage equal to that percentage contribution; or
- 47 (3) if there is more than one editor or compiler (including any who are not eligible persons), an equal share of 20 per cent or the higher percentage attributable to the editors or compilers in accordance with head (2) above<sup>7</sup>.

Each eligible person's share of public lending right in respect of a book with two or more authors (including any who are not eligible persons but disregarding a translator, editor or compiler), must not exceed 50 per cent of that right unless the registrar is satisfied that any share exceeding 50 per cent which is specified<sup>8</sup> in the application for first registration of the right or in the application for first registration of an eligible author's share of the right<sup>9</sup> is reasonable in relation to that author's contribution<sup>10</sup>.

Where a book has two or more authors (including any who are not eligible persons) and the registrar is satisfied that one or more of them is dead or cannot be traced at the date of application despite all reasonable steps having been taken to do so, the public lending right must be apportioned amongst all the authors (including any who are not eligible persons):

- 48 (a) by attributing to each author the same share of public lending right as has been attributed to that author in respect of any other book by the same authors or, if there is more than one such other book, the most recent book by those authors in respect of which public lending right has been registered, if the registrar is satisfied that there has been no significant change in the respective contributions of the authors<sup>11</sup>;
- 49 (b) where head (a) above does not apply, equally, subject to:

1

- 1. (i) the prior application of the provisions relating to translators, editors or compilers<sup>12</sup> and unless all the persons<sup>13</sup> amongst whom the right would otherwise be apportioned equally jointly notify the registrar in writing that they wish the right to be apportioned in a manner other than equally, in which case the apportionment specified by them applies if the registrar is satisfied that it is reasonable in that case<sup>14</sup>; and
- 2. (ii) where the book is illustrated, the attribution of 20 per cent of the public lending right to the illustrator, or, if he satisfies the registrar that he has contributed

more than 20 per cent of the contents of the book, the attribution of the percentage equal to that percentage contribution, or if there is more than one illustrator (including any who are not eligible persons), the attribution of an equal share of 20 per cent or the higher percentage attributable to illustrators who have contributed more than 20 per cent of the contents<sup>15</sup>.

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Where head (b)(ii) above applies, an illustrator who is also an author of a book in another capacity is, in addition to any share of public lending right to which he is entitled under that provision, entitled to any further share of the right which is attributable to him as author in that other capacity<sup>16</sup>.

Where all the authors who are party to an application<sup>17</sup> and who are entitled<sup>18</sup> to a share of a percentage of public lending right in respect of the relevant book specify<sup>19</sup> that that percentage is to be apportioned in a manner other than that provided for<sup>20</sup>, the specified apportionment must apply if the registrar is satisfied that it is reasonable in that case<sup>21</sup>.

The following may, and may only, be registered on application in that behalf made in accordance with the prescribed procedure<sup>22</sup>:

- 50 (A) an eligible author's share of the public lending right in respect of an eligible book with two or more authors (including any who are not eligible persons)<sup>23</sup>;
- 51 (B) the share of the public lending right in such a book of an author who was not an eligible person at the time when application was first made for the registration of the share of the right of any co-author, if he has become and remains an eligible person<sup>24</sup>;
- 52 (C) a posthumously eligible person's share of the public lending right in respect of a posthumously eligible book<sup>25</sup> with two or more authors (including any who are not eligible persons)<sup>26</sup>.

1 For the meaning of 'eligible person' see PARA 446 ante.

2 For the meaning of 'author' and 'book' see PARAS 446-447 ante.

3 Ie in accordance with the Public Lending Right Scheme 1982 art 17(1)(c): see PARA 450 post. As to citation of the Public Lending Right Scheme 1982 see PARA 446 note 2 ante.

4 Ibid art 9A(1).

5 Ibid art 9A(2). This provision does not apply where a translator is an author of the book in another capacity unless he makes an application in accordance with art 17(1)(c)(ii) (see PARA 450 post): art 9A(2).

6 As to the registrar see PARA 444 ante.

7 Public Lending Right Scheme 1982 art 9A(3).

8 Ie in accordance with ibid art 17(1)(c): see PARA 450 post.

9 Ie in accordance with ibid art 17(2): see PARA 450 post.

10 Ibid art 9A(4) (substituted by SI 1997/1576).

11 Public Lending Right Scheme 1982 art 9A(5)(a).

12 Ie ibid arts 9A(2), (3): see the text and notes 5-7 supra.

13 Ie including the personal representatives of a posthumously eligible person: ibid art 9A(7). For the meaning of 'posthumously eligible person' see PARA 446 ante.

14 See ibid art 9A(7), to which head (b) in the text is expressed to be subject: art 9A(5)(b)(i).

- 15 Ibid art 9A(5)(b)(ii).
- 16 Ibid art 9A(6).
- 17 Ie under ibid art 17(1)(c): see PARA 450 post.
- 18 Ie under ibid art 9A(2), (3), (5)(b)(ii) only: see the text and notes 5-7, 12-15 supra.
- 19 See note 8 supra.
- 20 See note 18 supra.
- 21 Public Lending Right Scheme 1982 art 9A(8).
- 22 For the prescribed procedure see ibid arts 14, 14A, 17, 17B; and PARA 450 post.
- 23 Ibid art 9(2).
- 24 Ibid art 9(3).
- 25 For the meaning of 'posthumously eligible book' see PARA 447 ante.
- 26 Public Lending Right Scheme 1982 art 9(4).



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#### **450. Procedure for registration.**

An application for first registration of public lending right in respect of an eligible book<sup>1</sup>:

- 53 (1) must satisfy the prescribed requirements<sup>2</sup> and be made by delivery at the registry<sup>3</sup>;
- 54 (2) must be made by an eligible author<sup>4</sup>; and
- 55 (3) where the book has two or more authors (including any who are not eligible persons<sup>5</sup>), must specify the shares of each of them<sup>6</sup>.

For the purpose of head (3) above, each of those authors who is alive at the date of application must be a party to the application, unless:

- 56 (a) the Registrar of Public Lending Right is satisfied that he cannot be traced, despite all reasonable steps having been taken to do so; or
- 57 (b) the application is made by the translator or editor or compiler of the book and he specifies that he is making the application only in his capacity as such;
- 58 (c) any author of the book who is not a party to the application is a translator and the application specifies that it relates only to that share of public lending right in the book to which the translator is not entitled; or
- 59 (d) the application is made by an author of the book and he specifies that he is making the application otherwise than wholly or partly in the capacity of translator, editor, or compiler of the book, and:

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- 3. (i) there is at the date of the application an effective agreement or arrangement between each person who is an author of the book (including any author who is not an eligible person or who does not wish to register);
- 4. (ii) each such person is a party to the agreement or arrangement otherwise than wholly or partly in the capacity of translator, editor or compiler of the book; and
- 5. (iii) the agreement or arrangement relates to the apportionment of shares of public lending right in the book or, where there is any eligible person who would be entitled to a share of the right by virtue of being a translator, editor, or compiler, to the apportionment of shares in such proportion of the right as would remain after taking account of any such entitlement<sup>7</sup>.

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An application for first registration of an eligible author's share of public lending right in respect of an eligible book with two or more authors (including any who are not eligible persons) must satisfy the prescribed requirements<sup>8</sup> and be made by delivery at the registry, must be made by the author concerned, and must, when made by an author otherwise than wholly or partly in the capacity of translator, editor or compiler of the book, satisfy the requirements of head (d) above<sup>9</sup>.

An application for first registration of public lending right in respect of a posthumously eligible book<sup>10</sup> and an application for first registration of a posthumously eligible person's<sup>11</sup> share of public lending right in respect of such a book with two or more authors (including any who are not eligible persons) must satisfy the prescribed requirements<sup>12</sup> and be made by delivery at the

registry, and must be made by the personal representatives of the posthumously eligible person concerned<sup>13</sup>.

The registrar must record the date upon which each application for first registration is received by him<sup>14</sup>.

The registrar may require the submission of evidence to satisfy him that:

- 60 (A) a book is an eligible book;
- 61 (B) a person applying as author for the first registration of public lending right, or the registration of a share of the right, is in fact the author of that book and is an eligible person;
- 62 (C) any co-author who is not a party to an application for first registration of public lending right is dead or cannot be traced despite all reasonable steps having been taken to do so; and
- 63 (D) where such an application as is mentioned in head (d) above has been made<sup>15</sup>, that there is such an agreement or arrangement as is mentioned in that head, and that the share of public lending right of the person making the application is as specified in that agreement or arrangement<sup>16</sup>.

For the purpose of obtaining any such evidence, the registrar may require a statutory declaration to be made by any person<sup>17</sup>.

When the registrar is satisfied as to the eligibility of a book for registration and as to the persons entitled to public lending right in respect of that book and, if more than one, of their respective shares therein, the registration must be completed and, as regards a first registration of the right, each registration is effective as from the day the application was recorded by the registrar as have been received by him<sup>18</sup>. On completion of a registration the registrar must issue, to any person so entered in the register as having an interest in the public lending right in respect of the book to which the entry relates, an acknowledgement of registration in the form of a copy of the relevant entry, indicating therein the date from which the entry takes effect<sup>19</sup>.

Where in the case of any application for first or any subsequent registration an applicant has failed to provide within three months information requested by the registrar, notice may be given to the applicant that the application will be treated as abandoned unless the information is duly furnished within a time (not being less than one month) determined by the registrar and specified in the notice; and if, at the expiration of that time, the information so requested is not furnished, the application may be treated as abandoned<sup>20</sup>.

1 For the meaning of 'eligible book' see PARA 447 ante.

2 The requirements of the Public Lending Right Scheme 1982 art 14: art 17(1)(a). The application must be made in writing to the Registrar of Public Lending Right and must provide the information specified in art 14, Sch 1 Pt I (as amended) in such form as he may from time to time require: art 14. Each application must provide the registrar, in such form as he may from time to time require, with the following (Sch 1 Pt I paras 1-5) (Sch 1 para 2 substituted by SI 1991/2618):

- 1 (1) the title of the book to which the application relates;
- 2 (2) the name of every author (within the meaning of art 4: see PARA 446 ante) and the evidence on which each author relies for the purpose of being treated as an author in accordance with the Public Lending Right Scheme 1982 art 4(2) (as amended);
- 3 (3) the true identity (if different from head (2) supra) of each such person, and his address;
- 4 (4) the International Standard Book Number (if any) of the book; and

- 5 (5) a statement signed by each applicant that in each case the conditions as to eligibility specified in Pt II (arts 4-6A (as amended)) are satisfied at the date of application, accompanied, when the applicant has not previously made an application under art 17, by a certificate signed by a member of Parliament, justice of the peace, minister of religion, lawyer, bank officer, school teacher, police officer, doctor or other person accepted by the registrar as being of similar standing and stating that he has known the applicant for at least two years, that he is not related to the applicant and that to the best of his knowledge the contents of the statement by the applicant are true.

In the case of a work by more than one author, the application must provide a statement signed by all the authors who are alive and can be traced at the date of application specifying: (a) the agreed share in the public lending right of each author, and whether any author is translator, editor, compiler or, if any author is dead or untraced at the date of application, illustrator of the book and, if so, whether he is also an author of the book in another capacity; or (b) a statement by the applicant that he is translator, editor or compiler of the book and that his claim to the public lending right in respect thereof is limited to the percentage prescribed in art 9A(2) or (3) as the case may be (see PARA 449 ante); or (c) where one of the authors of the work is a translator, a statement signed by the other author or, if more than one, all the other authors who are alive and can be traced at the date of application specifying:

- 6 (i) that another author of the book who is not a party to the application is a translator;
- 7 (ii) that the claim to public lending right in respect thereof is limited to that share to which the translator is not entitled;
- 8 (iii) where there is more than one author other than the translator, the agreed share of each such author in that share of the public lending right to which the translator is not entitled, and whether any such author is editor or compiler or, if any such author is dead or untraced at the date of application, illustrator of the book and, if so, whether he is also an author of the book in another capacity; or

(d) where such an application as is mentioned in art 17(1)(c)(iv) is made in accordance with art 17(1) or (2), a statement specifying the names of all other persons whether or not party to such agreement or arrangement as is mentioned in art 17 (1)(c)(iv) who are eligible for a share of public lending right in respect of the book: Sch 1 para 6. Where an editor or compiler of a book wishes to claim, or claim an equal share of, more than 20% of the public lending right in accordance with art 9A(3), the application must provide particulars indicating evidence of the percentage that he has, or where there are two or more editors or compilers that they have jointly, contributed to the contents of the book: Sch 1 para 7. Finally, in the case of an author not of full age, the application must provide a declaration by the applicant that he is the parent or guardian, as the case may be, of the author, and a copy of the author's birth certificate: Sch 1 para 8.

As to citation of the Public Lending Right Scheme 1982 see PARA 446 note 2 ante; and as to the Registrar of Public Lending Right see PARA 444 ante.

3 Ibid art 17(1)(a). Unless the context otherwise requires, any requirement in the Public Lending Right Scheme 1982 for a document or an application to be delivered at the registry or produced to the registrar or for notice to be given to him, is satisfied if it is either delivered in person at the registry between the hours of 11 am and 3 pm on a working day or sent through the post by recorded delivery: art 3(a). As to the registry see PARA 448 note 3 ante.

4 Ibid art 17(1)(b). For the meaning of 'eligible author' see PARA 446 ante. Anything which falls to be done by an author under art 17 must, if he is not of full age, be done by his parent or guardian and that parent or guardian must be recorded in the register as the person to whom are payable sums in respect of any registered interest of the author until such time as a transfer of the registration into the author's own name has been recorded in pursuance of art 25 (see PARA 453 post): art 17(3).

5 For the meaning of 'eligible person' see PARA 446 ante.

6 Public Lending Right Scheme 1982 art 17(1)(c). As to shares in public lending right see PARA 449 ante.

7 Ibid art 17(1)(c)(i)-(iv).

8 Ie the requirements of ibid art 14: see note 2 supra.

9 Ibid art 17(2). For transitional provisions relating to translators, editors and compilers see art 17A.

10 For the meaning of 'posthumously eligible book' see PARA 447 ante.

11 For the meaning of 'posthumously eligible person' see PARA 446 ante.

12 le the requirements of the Public Lending Right Scheme 1982 art 14A: art 17B(a). An application under art 17B for first registration of public lending right, or of a posthumously eligible person's share of the right, in relation to a posthumously eligible book must be made in writing to the registrar and must provide in such form as he may from time to time require:

- 9 (1) the information specified in Sch 1 Pt I paras 1-4 (as amended) other than the address specified in Sch 1 Pt I para 4 (see note 2 supra) (art 14A(a));
- 10 (2) a statement signed by the personal representatives of the posthumously eligible person that the conditions as to eligibility specified in arts 5A, 6A (see PARAS 446-447 ante) are satisfied (art 14A(b)); and
- 11 (3) in the case of a work by more than one author, a statement so signed that the posthumously eligible person in relation to whom the application is being made was translator, editor or compiler or illustrator of the book and that the claim to public lending right in respect thereof is limited to the percentage prescribed in art 9A(2), (3) or (5)(b)(ii) or that the other author, or one of the other authors, of the work is a translator and that the claim to public lending right in respect thereof is limited to that share or to a share of that share to which the translator is not entitled, and must be accompanied, when the personal representatives have not previously made an application under art 17B in relation to that posthumously eligible person, by (a) the probate, letters of administration or confirmation of executors of the posthumously eligible person in relation to whom the application is being made; and (b) a certificate signed by a member of Parliament, justice of the peace, minister of religion, lawyer, bank officer, school teacher, police officer, doctor or other person accepted by the registrar as being of similar standing and stating that he had known the posthumously eligible person in relation to whom the application is being made for at least two years before the date of his death, that he was not related to him and that to the best of his knowledge the contents of the statement referred to in head (2) supra are true (art 14A(c)).

13 Ibid art 17B.

14 Ibid art 15.

15 le in accordance with ibid art 17(1) or (2): see the text and notes 1-9 supra.

16 Ibid art 18(a)-(d).

17 Ibid art 18.

18 Ibid art 16(1).

19 Ibid art 16(2).

20 Ibid art 33.

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#### **451. Amendment of the register.**

The register<sup>1</sup> may be amended pursuant to an order of a court of competent jurisdiction or by decision of the Registrar of Public Lending Right<sup>2</sup> in any of the following cases:

- 64 (1) in any case and at any time by consent of the registered owner<sup>3</sup> or owners of the right in respect of a particular book<sup>4</sup>;
- 65 (2) where a court of competent jurisdiction or the registrar is satisfied that an entry in the register has been obtained by fraud;
- 66 (3) where a decision of a court of competent jurisdiction affects any interest in an eligible book<sup>5</sup> and, in consequence thereof, the registrar is of the opinion that amendment of the register is required;
- 67 (4) where two or more persons are erroneously registered as being entitled to the same interest in public lending right in respect of a particular book;
- 68 (5) where an entry erroneously relates to a book which is not an eligible book;
- 69 (6) in any other case where by reason of any error or omission in the register, or by reason of any entry made under a mistake, it appears to the registrar just to amend the register<sup>6</sup>.

The person who, as a result of an amendment of the register<sup>7</sup>, becomes the registered owner of a registered interest is entitled to the payment of public lending right in respect of that interest from the date upon which the register was amended<sup>8</sup>.

1 As to the register see PARA 448 ante.

2 As to the registrar see PARA 444 ante.

3 For the meaning of 'registered owner' see PARA 448 note 11 ante.

4 For the meaning of 'book' see PARA 447 ante.

5 For the meaning of 'eligible book' see PARA 447 ante.

6 Public Lending Right Scheme 1982 art 12. As to citation of the Public Lending Right Scheme 1982 see PARA 446 note 2 ante.

7 Ie pursuant to ibid art 12 (see the text and notes 1-6 supra) or art 17A (transitional provisions for translators, editors and compilers): art 13.

8 Ibid art 13.

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## **(v) Subsequent Dealings with Public Lending Right**

### **452. In general.**

A registered interest<sup>1</sup> is transmissible by assignment or assignation, by testamentary disposition or by operation of law, as personal or movable property, so long, as regards a particular book<sup>2</sup>, as the public lending right in respect of that book is capable of subsisting<sup>3</sup>. The duration of public lending right in respect of any book and the period during which there may be dealings therein is from the date of the book's first publication (or, if later, the beginning of the sampling year<sup>4</sup> in which application is made for it to be registered) until 70 years have elapsed since the end of the sampling year in which the author<sup>5</sup> died or, if the book is registered as the work of more than one author, as regards dealings in the share of the right<sup>6</sup> attributable to that author, the end of the year in which that author died<sup>7</sup>.

The disposition of public lending right after the first registration of it must, as respects each registered interest in any book, be for the whole of that interest<sup>8</sup>. On such disposition the interest may be registered in the name of joint owners, being not more than four in number and all being of full age, but in such case the senior<sup>9</sup> only is deemed, for the purposes of the public lending right scheme, to be the registered owner<sup>10</sup>. Subject to the provisions relating to bankruptcy and schemes of arrangement<sup>11</sup>, no notice of any trusts (whether expressed, implied or constructive) may be entered on the register or are receivable by the registrar<sup>12</sup>.

Every application for registration of a transfer of public lending right must satisfy the prescribed requirements<sup>13</sup> and be made by delivery at the registry<sup>14</sup>. An application for transfer must bear the proper Inland Revenue stamp impressed thereon to show that all duty (if any) payable in respect of the transaction has been paid<sup>15</sup>. Where an application for transfer is submitted for the purpose of giving effect to a transaction under a deed or other instrument on which the Inland Revenue stamp has already been impressed, the stamped instrument must, before completion of the registration, be produced to the Registrar of Public Lending Right to show that all duty (if any) payable in respect of the transaction has been paid<sup>16</sup>.

It is a condition of registration of every transfer that the transferee provides, and gives an undertaking to the registrar in future to provide at such intervals and in such form as the registrar may require, evidence that the author is still alive, or, as the case may be, evidence of the author's death<sup>17</sup>. No transmission of a registered interest is effective until entered in the register by the registrar<sup>18</sup>.

1 For the meaning of 'registered interest' see PARA 448 note 12 ante.

2 For the meaning of 'book' see PARA 447 ante.

3 Public Lending Right Scheme 1982 art 19. As to citation of the Public Lending Right Scheme 1982 see PARA 446 note 2 ante.

4 For the meaning of 'sampling year' see PARA 457 note 11 post.

5 For the meaning of 'author' see PARA 446 ante.

6 As to shares in public lending right see PARA 449 ante.

7 Public Lending Right Scheme 1982 art 20 (amended by SI 1997/1576).

8 Public Lending Right Scheme 1982 art 21(1).

9 Seniority must be determined by the order in which names stand in the register: *ibid* art 21(2).

10 *Ibid* art 21(2).

11 *Ie* *ibid* arts 29, 30: see *PARA 455 post*.

12 *Ibid* art 21(3).

13 *Ie* the requirements of *ibid* art 14: art 22. An application for the transfer of a registered interest must be made in writing to the Registrar of Public Lending Right and must provide him, in such form as he may from time to time require, with the following information: (1) the title of the book; (2) the International Standard Book Number (if any) of the book; (3) the name and address of the transferor; (4) the name and address of the transferee; and (5) an undertaking by the transferee to furnish to the registrar, whenever so required, proof that the author is still alive: art 14(b), Sch 1 Pt II paras 1-5. As to the registrar see *PARA 444 ante*.

14 *Ibid* art 22. As to the method of delivery see *PARA 450 note 3 ante*; and as to the registry see *PARA 448 note 3 ante*.

15 *Ibid* art 23(1).

16 *Ibid* art 23(2).

17 *Ibid* art 24.

18 See *ibid* art 10; and *PARA 448 note 15 ante*.

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**453. Registration by an author on attainment of full age.**

An author<sup>1</sup> whose interest is registered<sup>2</sup> in the name of his parent or guardian may, on attaining full age<sup>3</sup>, make application to the Registrar of Public Lending Right<sup>4</sup> for the transfer of the registration of the right into his own name, and until that transfer has been recorded the registrar is entitled to remit any sums due in respect of the right to the parent or guardian in whose name the interest is registered<sup>5</sup>.

1 For the meaning of 'author' see PARA 446 ante.

2 I.e. pursuant to the Public Lending Right Scheme 1982 art 17(3): see PARA 450 ante. As to citation of the Public Lending Right Scheme 1982 see PARA 446 note 2 ante.

3 The age of majority is 18 years: see the Family Law Reform Act 1969 s 1(1).

4 I.e. in accordance with the Public Lending Right Scheme 1982 arts 21-23, so far as they are applicable: see PARA 452 ante. As to the registrar see PARA 444 ante.

5 Ibid art 25.



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#### **454. Transmission on death.**

On production of the probate, letters of administration, or confirmation of executors of a registered owner<sup>1</sup>, the personal representatives named in that probate, those letters or that confirmation must, on production of it or them to the Registrar of Public Lending Right<sup>2</sup>, be registered as owner in place of the deceased owner<sup>3</sup>.

The personal representatives so registered may transfer the interest of the deceased owner<sup>4</sup>.

1 For the meaning of 'registered owner' see PARA 448 note 11 ante.

2 As to the registrar see PARA 444 ante.

3 Public Lending Right Scheme 1982 art 26. Registration is with the addition of the words 'executor or executrix (or administrator or administratrix) of [name] deceased': art 26. As to citation of the Public Lending Right Scheme 1982 see PARA 446 note 2 ante.

4 Ibid art 27. The transfer must be in accordance with arts 21-24 (see PARA 452 ante) or such provisions of them as are applicable in the circumstances of the case: art 27.

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#### **455. Transfer on bankruptcy or liquidation.**

On the production to the Registrar of Public Lending Right<sup>1</sup> of an office copy of an order of a court having jurisdiction in bankruptcy adjudging a registered owner bankrupt or directing the estate of a deceased registered owner<sup>2</sup> to be administered in accordance with an order under the Insolvency Act 1986<sup>3</sup>, together with a certificate signed by the official receiver that any registered interest<sup>4</sup> in the name of the bankrupt registered owner, or deceased registered owner, is part of his property divisible amongst his creditors, the official receiver may be registered as the registered owner in place of the bankrupt or deceased registered owner<sup>5</sup>.

Where the official receiver has been registered as registered owner and some other person is subsequently appointed trustee, the trustee may be registered as registered owner in place of the official receiver on production of an office copy of the certificate of his appointment as trustee<sup>6</sup>. If the official receiver has not been entered on the register<sup>7</sup>, the trustee may be registered as registered owner on production of office copies of the order adjudging the registered owner bankrupt and the appropriate certificate, with a certificate signed by the trustee that the registered interest is part of the property of the bankrupt divisible amongst his creditors<sup>8</sup>.

If any registered interest is vested in a trustee under the provisions of a scheme of arrangement approved by a court having jurisdiction in bankruptcy, the official receiver or other trustee may be registered as owner in the same manner as a trustee in bankruptcy upon production of an office copy of the scheme of arrangement, a certificate signed by the official receiver, or that other trustee, that the registered interest was part of the property vested in him under the provisions of the scheme, and in the case of a trustee other than the official receiver, an office copy of the certificate of his appointment as trustee<sup>9</sup>.

In the liquidation of a company in which an interest in public lending right is vested, any resolution or order appointing a liquidator may be filed and referred to on the register, and, when so registered, is deemed to be in force until it is cancelled or superseded on the register<sup>10</sup>.

1 As to the registrar see PARA 444 ante.

2 For the meaning of 'registered owner' see PARA 448 note 11 ante.

3 Ie under the Insolvency Act 1986 s 421: see BANKRUPTCY AND INDIVIDUAL INSOLVENCY vol 3(2) (2002 Reissue) PARA 823.

4 For the meaning of 'registered interest' see PARA 448 note 12 ante.

5 Public Lending Right Scheme 1982 art 28(1). For equivalent provisions relating to Northern Ireland and to Scotland see art 28(1), (2). As to citation of the Public Lending Right Scheme 1982 see PARA 446 note 2 ante.

6 Ibid art 29(1). For equivalent provisions relating to Northern Ireland and to Scotland see art 29(1), (2).

7 Ie under ibid art 28(1): see the text and notes 1-5 supra.

8 Ibid art 29(3). For equivalent provisions relating to Northern Ireland and to Scotland see art 29(3), (4).

9 Ibid art 30(1). For equivalent provisions relating to Northern Ireland and to Scotland see art 30(2), (3).

10 Ibid art 31.



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#### **456. Renunciation.**

On making application in that behalf which satisfies the prescribed requirements<sup>1</sup>, the registered owner<sup>2</sup> of a registered interest<sup>3</sup> may absolutely and unconditionally renounce that interest<sup>4</sup>. The renunciation may, as to extent, be in respect of either the whole or a half share of the registered interest and may be effective for all time, or in respect of such financial years<sup>5</sup> as are specified by the registered owner<sup>6</sup>.

An application for renunciation must bear the proper Inland Revenue stamp impressed on it<sup>7</sup>.

As at the date from which the renunciation is to have effect, the Registrar of Public Lending Right must amend the register:

- 70 (1) in the case of a renunciation for all time of the whole of the registered interest, by removing from the register the entry relating to the registered owner and, if that interest represents the whole of the public lending right in a book, the entry relating to that book; or
- 71 (2) in all other cases, by noting against the relevant entry in the register the extent of the renunciation and the period during which it is effective<sup>8</sup>.

Any sum due by way of public lending right which, apart from the renunciation, would become payable to the registered owner by 31 March in any year falling within the period to which the renunciation applies, ceases to be so payable immediately upon the amendment of the register as provided above<sup>9</sup>.

1. I.e. the requirements of the Public Lending Right Scheme 1982 art 14: art 32(1). Any application for renunciation must be made in writing to the Registrar of Public Lending Right and provide the following information in such form as he may from time to time require: (1) the name and address of the person renouncing; (2) the title of the book to which the renunciation relates; (3) the International Standard Book Number (if any) of the book; (4) the extent of the right being renounced; and (5) the period in respect of which the right is renounced: art 14(c), Sch 1 Pt III paras 1-5. For the meaning of 'book' see PARA 447 ante. As to citation of the Public Lending Right Scheme 1982 see PARA 446 note 2 ante.

2. For the meaning of 'registered owner' see PARA 448 note 11 ante.

3. For the meaning of 'registered interest' see PARA 448 note 12 ante.

4. Public Lending Right Scheme 1982 art 32(1).

5. 'Financial year' means a period of 12 months ending on 31 March: *ibid* art 2(1).

6. *Ibid* art 32(2).

7. *Ibid* art 32(3).

8. *Ibid* art 32(4).

9. *Ibid* art 32(5).

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## **(vi) Ascertainment of the Number of Loans of Books**

### **457. Ascertainment by means of a sample.**

The number of occasions on which a book<sup>1</sup> is lent out must be determined by means of a sample of the lendings of that book from particular service points<sup>2</sup>, designated in accordance with the prescribed provisions<sup>3</sup>. For the purpose of the sample, service points are classified into specified groups<sup>4</sup> according to local library authority areas<sup>5</sup>.

Such local library authorities as the Registrar of Public Lending Right<sup>6</sup> may require must, not later than 30 September in each year, furnish to the registrar lists, as at 31 March of that year, of all their principal<sup>7</sup>, ordinary<sup>8</sup> and mobile<sup>9</sup> service points<sup>10</sup>. The registrar must, not later than 31 December of that year, designate<sup>11</sup> those service points which are to be operative sampling points<sup>12</sup> or which are to be included in operative sampling points as from the beginning of the ensuing sampling year<sup>13</sup>. At any time after he has so designated a sampling point, the registrar may, after giving the requisite notice<sup>14</sup>, discontinue the designation of that point and designate a new sampling point<sup>15</sup>. The discontinuance and the new point take effect from 1 January in the ensuing sampling year<sup>16</sup>.

The registrar must exercise his powers under these provisions so as to secure<sup>17</sup> that:

- 72 (1) at all times there are not less than 30 operative sampling points distributed among the specified groups in the prescribed manner<sup>18</sup>;
- 73 (2) at all times the operative sampling points falling within each specified group include a principal service point and an ordinary service point;
- 74 (3) at all times one of the three operative sampling points in Wales is within one of certain principal areas<sup>19</sup>;
- 75 (4) at all times one of the three operative sampling points in Scotland is outside the Cities of Edinburgh and Glasgow;
- 76 (5) no operative sampling point consists of a mobile library service point other than one falling within one of certain principal areas in Wales<sup>20</sup>;
- 77 (6) during each sampling year at least eight operative sampling points are replaced by new such points; and
- 78 (7) no operative sampling point remains as such for a continuous period of more than four years<sup>21</sup>.

The relevant local library authority must notify the registrar of any change in the categorisation of a sampling point which consists of a single principal, ordinary or mobile service point but the registrar is not required<sup>22</sup> to discontinue the designation of the point as a sampling point before the expiry of the sampling year in which he receives the notice or, if that year has less than six months to run, before the expiry of the next following sampling year<sup>23</sup>.

The local library authority must notify the registrar of any decision to close a service point which is or is included in a sampling point and the date on which the closure takes effect but, if it is not reasonably practicable for the registrar to satisfy the requirements of heads (1) to (7) above before the closure takes effect, those requirements must be treated as satisfied if satisfied as soon as is reasonably practicable thereafter<sup>24</sup>.

1 For the meaning of 'book' see PARA 447 ante.

2 'Service point' means a place from which books comprised in a library are lent out to the public at large; and for these purposes, 'library' has the meaning assigned to it by the Public Lending Right Act 1979 s 3(4) (see PARA 442 note 17 ante): Public Lending Right Scheme 1982 art 36. As to citation of the Public Lending Right Scheme 1982 see PARA 446 note 2 ante.

3 Ibid art 37.

4 Service points must be grouped according to local library authority areas as follows: (1) GROUP A: those within the areas of the following districts or, as the case may be, counties, ie Bedfordshire, Berkshire, Brighton and Hove, Buckinghamshire, Cambridgeshire, East Sussex, Essex, Hertfordshire, Kent, Luton, Milton Keynes, Norfolk, Northamptonshire, Oxfordshire, Suffolk, Surrey, West Sussex; (2) GROUP B: those within the areas of the following districts or, as the case may be, counties, ie Bath and North East Somerset, Bournemouth, City of Bristol, City of Portsmouth, City of Southampton, City of Stoke-on-Trent, Cornwall, Devon, Dorset, Gloucestershire, Hampshire, Hereford and Worcester, The Isle of Wight, The Isles of Scilly, North Somerset, Poole, Shropshire, Somerset, South Gloucestershire, Staffordshire, Swindon, Warwickshire, Wiltshire; (3) GROUP C: those within the areas of the following districts or, as the case may be, counties, ie Cheshire, City of Derby, City of Kingston upon Hull, City of Leicester, Cumbria, Darlington, Derbyshire, Durham, East Riding of Yorkshire, Hartlepool, Lancashire, Leicestershire, Lincolnshire, Middlesbrough, North East Lincolnshire, North Lincolnshire, Northumberland, North Yorkshire, Nottinghamshire, Redcar and Cleveland, Rutland, Stockton-on-Tees, York; (4) GROUP D: those within the areas of the metropolitan districts of England; (5) GROUP E: those within the area of Greater London; (6) GROUP F: those in Wales; (7) GROUP G: those in Scotland; and (8) group h, those in Northern Ireland: ibid art 36, Sch 2 (amended by SI 1996/1338; and by SI 1997/1576). For the meaning of 'local library authority' see PARA 432 ante; and as to the application of this definition see PARA 442 note 5 ante.

5 Public Lending Right Scheme 1982 art 37.

6 As to the registrar see PARA 444 ante.

7 'Principal service point', in relation to a library authority, means any of the following: (1) whichever of the service points for which that authority is responsible is the service point from which the greatest number of loans were made during the preceding period of 12 months; (2) any service point for which that authority is responsible, the number of loans from which during the preceding period of 12 months was not less than three-quarters of the number of loans made from the service point referred to in head (1) supra during the same period; (3) any other such service point from which 500,000 or more loans were made during that period; and 'principal service points' means every service point which is a principal service point in relation to any library authority: Public Lending Right Scheme 1982 art 36. 'Loans' means loans whereby books are lent out from a service point to individual borrowers, and includes loans of books not normally held at that service point; and 'month' means one of the 12 months in the calendar year: art 36.

8 'Ordinary service point' means a service point from which fewer than 500,000 loans were made during the preceding period of 12 months: ibid art 36.

9 'Mobile library service point' means a service point which is taken about from place to place: ibid art 36.

10 Ibid art 38(1).

11 The registrar must give to the local library authority responsible for a sampling point, for the purposes of designating that point under ibid art 38(1), (1A), notice in writing of such designation specifying the period ending on 31 December or 30 June, in any sampling year for which he intends the point to be an operative sampling point: art 38(5)(a). Unless the context otherwise requires, any requirement in the Public Lending Right Scheme 1982 for a local library authority to be notified of any matter is satisfied if such notification is sent through the post: art 3(b). 'Sampling point' means any principal service point, ordinary service point or mobile library service point, or any number of such points in relation to any local library authority, which has been designated, for the time being, by the registrar under art 38 (as amended); and 'sampling year' means the period of 12 months ending on 30 June: arts 2(1), 36. For the meaning of 'operative sampling point' see note 12 infra.

12 'Operative sampling point' means a sampling point at which loans are for the time being required to be recorded in pursuance of ibid art 40(1) (as amended) (see PARA 458 post): art 36.

13 Ibid art 38(1).

14 The registrar must give to the local library authority responsible for a sampling point, for the purpose of discontinuing that point as a sampling point, not less than six months' notice in writing of such discontinuance: ibid art 38(5)(b).

15 Ibid art 38(1A).

16 See ibid art 38(1A).

17 Ie subject to ibid art 38(4): see the text and note 24 infra.

18 See ibid art 38(2)(a). The 30 operative sampling points must comprise: (1) five points falling within not less than three local library authority areas in Sch 2 Group A (as amended) and five points falling within not less than four local library authority areas in Sch 2 Group D; (2) four points falling within not less than three local library authority areas in each of Sch 2 Groups B, C (as amended) and Sch 2 Group E; (3) three points falling within not less than three local library authority areas in each of Sch 2 Groups F and G; and (4) two points falling within not less than two local library authority areas in Sch 2 Group H: art 38(2)(a).

19 The principal areas are Carmarthenshire, Pembrokeshire, Ceredigion, Isle of Anglesey, Gwynedd, Conwy, Denbighshire or Powys: ibid art 38(2)(c) (substituted by SI 1996/1338).

20 See note 19 supra.

21 Public Lending Right Scheme 1982 art 38(2) (amended by SI 1996/1338).

22 Ie by ibid art 38(2)(a): see head (1) in the text.

23 Ibid art 38(3). For these purposes and the purposes of art 38(2)(a), a change in the categorisation of a sampling point must be disregarded if it is occasioned by an increase or decrease of less than 10% in the number of loans made therefrom: art 38(3).

24 Ibid art 38(4).

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#### **458. Recording of loans.**

Upon receipt of a notice designating a sampling point<sup>1</sup>, a local library authority<sup>2</sup> must:

- 79 (1) arrange for every book which may be lent out from the sampling point to which the designation refers to be marked, in such form as the Registrar of Public Lending Right<sup>3</sup> may require, with its identifying number<sup>4</sup> and (where more than one copy<sup>5</sup> may be lent out) copy number<sup>6</sup>, and must notify the registrar at such time and in such manner as he may direct of the number of books so marked<sup>7</sup>; and
- 80 (2) acquire, in accordance with arrangements approved by the registrar, such equipment (including computer programs) as may be necessary to enable the authority to comply with the following provisions<sup>8</sup> regarding the furnishing of information to the registrar<sup>9</sup>.

A local library authority which has received a notice designating a sampling point must, for such period as is specified in the notice, record every occasion on which a copy of a book<sup>10</sup> is lent out to the public from the sampling point to which the notice refers and must furnish to the registrar, in such form and at such intervals as he may direct, details of such lendings, including the identifying number and any copy number of the copy in question<sup>11</sup>.

Each local library authority must submit to the registrar, in such form, at such intervals and in respect of such periods as he may direct, a return of the total number of occasions on which the books comprised in all its collections were the subject of loans<sup>12</sup>.

1    I.e. a notice under the Public Lending Right Scheme 1982 art 38(5)(a): see PARA 457 ante. As to citation of the Public Lending Right Scheme 1982 see PARA 446 note 2 ante; and for the meaning of 'sampling point' see PARA 457 note 11 ante.

2    For the meaning of 'local library authority' see PARA 432 ante; and as to the application of this definition see PARA 442 note 5 ante.

3    As to the registrar see PARA 444 ante.

4    'Identifying number' means the number entered in the register in pursuance of the Public Lending Right Scheme 1982 art 8(1)(a)(iv) (see PARA 448 ante): art 36.

5    'Copy' means an individual copy of a particular book: *ibid* art 36. For the meaning of 'book' see PARA 447 ante.

6    'Copy number' means a number which distinguishes the copy to which it is applied from other copies of the same book in the same library: *ibid* art 36. For the meaning of 'library' see PARA 457 note 2 ante.

7    *Ibid* art 39(a) (amended by SI 1997/1576).

8    I.e. with the provisions of the Public Lending Right Scheme 1982 art 40 (as amended): see the text and notes 10-11 *infra*.

9    *Ibid* art 39(b).

10   For these purposes, each volume of a work published in two or more volumes must be treated as a separate book: *ibid* art 40(2).

11   *Ibid* art 40(1) (amended by SI 1997/1576).



12 Public Lending Right Scheme 1982 art 41.

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#### **459. Method of determining the number of notional loans.**

The Registrar of Public Lending Right<sup>1</sup> must, from the details of loans<sup>2</sup> furnished to him by local library authorities<sup>3</sup> (upon the accuracy of which he is entitled to rely), calculate in accordance with the following provisions the number of notional loans of each book<sup>4</sup> in respect of which public lending right subsists in each sampling year<sup>5</sup>. The number of notional loans of each book made during a sampling year is the aggregate of the number of notional loans of that book made in all groups<sup>6</sup>; and the number of notional loans for a group is determined in accordance with a prescribed formula<sup>7</sup> and is arrived at as follows:

- 81 (1) the number of loans of that book recorded during the sampling year at the operative sampling points<sup>8</sup> in that group ('A') is divided by the total number of loans of books made to the public during the sampling year from the operative sampling points in that group ('B'); and
- 82 (2) the resulting figure is then multiplied by the aggregate of the loans of all books made to the public from all libraries<sup>9</sup> in the area of the group during the financial year<sup>10</sup> ending in the sampling year in question, or, as regards any particular library for which loan data relating to that financial year is not available to the registrar, the most recent financial year for which he has such data ('C')<sup>11</sup>.

For the purposes of this calculation, if on any occasion on which any details of lendings at a particular sampling point which consists of a single service point<sup>12</sup> are furnished to the registrar<sup>13</sup> and record loans of a copy of a book in excess of an average of one loan for each period of five days covered by the details, the loans in excess of that average must be disregarded<sup>14</sup>. The registrar may also disregard any loan of a book made after 30 June 1991 from a sampling point if a local library authority, on the first occasion after 30 June 1991 on which it reports<sup>15</sup> a loan of that book from that sampling point, does not specify an International Standard Book Number in respect of the book, and the book is not registered at the time of the report<sup>16</sup>.

1 As to the registrar see PARA 444 ante.

2 For the meaning of 'loans' see PARA 457 note 7 ante.

3 Ie pursuant to the provisions of the Public Lending Right Scheme 1982 Pt IV (arts 36-45) (as amended): see PARA 457 ante; the text and notes 4-15 infra; and PARA 459 post. As to citation of the Public Lending Right Scheme 1982 see PARA 446 note 2 ante. For the meaning of 'local library authority' see PARA 432 ante; and as to the application of this definition see PARA 442 note 5 ante.

4 For the meaning of 'book' see PARA 447 ante.

5 Public Lending Right Scheme 1982 art 42(1). For the meaning of 'sampling year' see PARA 457 note 11 ante.

6 For these purposes, ibid art 36, Sch 2 Groups A, B and C (as amended) are treated as one group: art 42(3) (a).

7 See ibid art 42(2).

8 For the meaning of 'operative sampling point' see PARA 457 note 12 ante.

9 For these purposes, 'library' has the same meaning as in the Public Lending Right Act 1979 s 3(4) (see PARA 442 note 17 ante): Public Lending Right Scheme 1982 art 42(2).

10 For the meaning of 'financial year' see PARA 456 note 5 ante.

11 Ibid art 42(2).

12 For the meaning of 'service point' see PARA 457 note 2 ante.

13 Ie in accordance with the Public Lending Right Scheme 1982 art 40 (as amended): see PARA 458 ante.

14 Ibid art 42(3)(b).

15 See note 13 supra.

16 Public Lending Right Scheme 1982 art 42(3)(c).

## **UPDATE**

### **459 Method of determining the number of notional loans**

TEXT AND NOTE 16--Replaced. Now, the registrar may disregard any loan of a book from a sampling point in accordance with art 40 where the local library authority does not specify an ISBN in respect of the book: SI 1999/420.

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#### **460. Reimbursement of local library authorities.**

Subject to the following provisions, the Registrar of Public Lending Right<sup>1</sup> must reimburse to local library authorities<sup>2</sup> the net expenditure incurred by them in giving effect to the public lending right scheme<sup>3</sup>. It is the duty of local library authorities to keep proper accounts and records in respect of the expenditure, including overhead expenses, incurred by them in giving effect to the scheme and the registrar may withhold payment to a local library authority, in whole or in part, until such time as that authority has furnished to him sufficient evidence as to the amount of the expenditure so incurred<sup>4</sup>.

Each local library authority to which a notice has been given designating an operative sampling point<sup>5</sup> must<sup>6</sup> submit to the registrar, at such time and in such form as he may require, estimates of the net expenditure to be incurred in giving effect to the scheme at the sampling point or points specified in the notice<sup>7</sup>. During the participating period<sup>8</sup> the local library authority may from time to time submit to the registrar claims in respect of the expenditure incurred, or estimated to have been incurred, by it, and the registrar is entitled to rely upon the accuracy of such claims and to make payments on account of the expenditure incurred by that authority in giving effect to the scheme<sup>9</sup>. The total amount payable by way of reimbursement to the local library authority must be finally determined by the registrar after examination of such audited financial statements and such books, records, documents, and accounts relating thereto as he may require; and any balance found after that final determination to be due by or to the registrar in account with the local library authority in question must be paid to or recovered from that local library authority<sup>10</sup>. In determining the amount finally to be paid to or recovered from a local library authority pursuant to this provision, account must be taken of any expenditure reasonably incurred by that authority in discontinuing the sampling point<sup>11</sup>.

1 As to the registrar see PARA 444 ante.

2 For the meaning of 'local library authority' see PARA 432 ante; and as to the application of this definition see PARA 442 note 5 ante.

3 Public Lending Right Act 1979 s 3(6); Public Lending Right Scheme 1982 art 43(1). In reckoning the net expenditure for the purposes of arts 43, 44 (as amended) (see the text and notes 4-11 infra), the following must be deducted from the gross expenditure incurred by a local library authority in connection with a sampling point: (1) any sum received in connection with the disposal (by sale, lease or otherwise) of any property or equipment purchased pursuant to art 39(b) (see PARA 458 ante); (2) any sum which it might reasonably be expected would have been received on such a disposal (whether or not there has been a disposal of the property or equipment in question); (3) any insurance money received in respect of the loss or destruction of or damage to any such property or equipment; (4) an amount representing the appropriate proportion of the net cost (whether by way of purchase, lease, or otherwise) of any property or equipment which is used by a local library authority partly in connection with the scheme and partly for other purposes not connected therewith: art 44(4). Where, however, deductions are made under both heads (1) and (2) supra in respect of the same property or equipment, the aggregate deductions thereunder must not exceed whichever is the greater of the sums mentioned in those heads: art 44(4) proviso. For the meaning of 'sampling point' see PARA 457 note 11 ante. As to citation of the Public Lending Right Scheme 1982 see PARA 446 note 2 ante.

4 Ibid art 43(2).

5 I.e a notice under ibid art 38(5)(a): see PARA 457 ante.

6 I.e without prejudice to the generality of ibid art 43(2): art 44(1).

7 Ibid art 44(1) (amended by SI 1997/1576).

8 'Participating period', in relation to a sampling point, means the period commencing on the date on which the local library authority having responsibility for it receives from the registrar notice of designation pursuant to the Public Lending Right Scheme art 38(5) and ending on the date specified in a notice given thereunder as the date upon which it is to cease to act as a sampling point: art 36 (amended by SI 1997/1576).

9 Public Lending Right Scheme 1982 art 44(2).

10 Ibid art 44(3).

11 Ibid art 44(5).

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## **(vii) Calculation and Payment of Public Lending Right**

### **461. Determination of the sum due in respect of public lending right.**

The person entitled to the public lending right in respect of any registered book<sup>1</sup> in any financial year<sup>2</sup> is the registered owner<sup>3</sup> thereof as at 30 June of that year<sup>4</sup>.

For any financial year, the sum due by way of public lending right in respect of a registered interest<sup>5</sup> to the registered owner thereof is ascertained by reference to:

- 83 (1) the product of the number of notional loans attributable to that interest<sup>6</sup> and the prescribed sum of money<sup>7</sup>; and
- 84 (2) the aggregate amount of that product and the like products in the case of all other registered interests which initially were registered interests of the same author<sup>8</sup> or were interests registered by the personal representatives of the same author<sup>9</sup>.

The sum so due for the financial year is the product mentioned in head (1) above or, if the aggregate amount mentioned in head (2) above exceeds £6,000, the product of (a) the number of notional loans attributable to the interest in question ('x') divided by the aggregate of that number and the number of notional loans attributable to all other registered interests which initially were registered interests of the same author or were interests registered by the personal representatives of the same author ('y'); and (b) £6,000<sup>10</sup>.

If the aggregate of the amounts so determined in respect of each registered interest of the registered owner thereof is less than £5, the sum due in respect of the registered interest is nil<sup>11</sup>.

No sum determined to be due under the scheme carries interest<sup>12</sup>.

1 For the meaning of 'book' see PARA 447 ante.

2 For the meaning of 'financial year' see PARA 456 note 5 ante.

3 For the meaning of 'registered owner' see PARA 448 note 11 ante.

4 Public Lending Right Scheme 1982 art 47. As to citation of the Public Lending Right Scheme 1982 see PARA 446 note 2 ante.

5 For the meaning of 'registered interest' see PARA 448 note 12 ante.

6 For the purposes of the Public Lending Right Scheme 1982 art 46(1) (as amended) (see heads (1)-(2) in the text), art 46(2)(b) (see heads (a)-(b) in the text), the number of notional loans attributable to any registered interest in any financial year must be calculated by ascertaining, in accordance with art 42(2) (see PARA 459 ante), the number of notional loans of the book to which it relates which were made during the sampling year ending in that financial year, and must be: (1) if the registered interest represents the whole of the public lending right in respect of that book, the total notional loans of the book in question; (2) if the registered interest relates only to a share of the public lending right in respect of that book, such proportion of the total notional loans of the book as the registered interest bears to the whole of the public lending right in that book, fractions of a loan being disregarded; (3) if the right in respect of that registered interest has been renounced in part, such proportion of the notional loans attributable to the registered interest under heads (1) or (2) supra, as the case may be, which the unrenounced share bears to the whole of the registered interest, fractions of a loan being disregarded; (4) nil, if the right in respect of the registered interest has been wholly renounced for the

financial year in question: art 46(4). For the meaning of 'sampling year' see 457 note 11 ante; and as to renunciation of public lending right see PARA 456 ante.

7 At the date at which this volume states the law, the prescribed sum of money was 2.07 pence: see the Public Lending Right Scheme 1982 (Commencement of Variations) (No 2) Order 1996, SI 1996/3237, which came into force on 1 January 1997, art 2.

8 For the purposes of the Public Lending Right Scheme 1982 art 46(1) (as amended) (see heads (1)-(2) in the text), art 46(2)(b) (see heads (a)-(b) in the text), the references to interests which were initially registered interests of the same author include interests which, in pursuance of art 17(3) (see PARA 450 ante), were registered in the name of his parent or guardian: art 46(5). For the meaning of 'author' see PARA 446 ante.

9 Ibid art 46(1) (amended by virtue of SI 1996/3237).

10 Public Lending Right Scheme 1982 art 46(2).

11 Ibid art 46(3) (amended by SI 1997/1576).

12 Public Lending Right Scheme art 51.

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#### **462. Claim for payment.**

No payment may be made in respect of public lending right unless that right has been claimed by or on behalf of the person for the time being entitled<sup>1</sup>. A claim in respect of the right may be made either for a specified period or for an unspecified period determinable by not less than three months' written notice of termination<sup>2</sup> given to the Registrar of Public Lending Right<sup>3</sup> by or on behalf of the person for the time being entitled to the right<sup>4</sup>.

A claim automatically lapses in the event of any change of ownership recorded on the register<sup>5</sup>, subsequent to first registration thereof, in respect of the right to which the claim relates<sup>6</sup>.

The registrar may at any time require a statutory declaration or other sufficient evidence that an author<sup>7</sup> or any registered owner<sup>8</sup> is alive and is the person to whom money is payable under the public lending right scheme, and may withhold payment until such declaration or evidence as he may require is produced<sup>9</sup>.

1 Public Lending Right Scheme 1982 art 48(1). As to the person entitled to payment see art 47; and PARA 461 ante. As to citation of the Public Lending Right Scheme 1982 see PARA 446 note 2 ante.

2 As to the method of giving notice see PARA 450 note 3 ante.

3 As to the registrar see PARA 444 ante.

4 Public Lending Right Scheme 1982 art 48(2).

5 As to the register see PARA 448 ante.

6 Public Lending Right Scheme 1982 art 48(3).

7 For the meaning of 'author' see PARA 446 ante.

8 For the meaning of 'registered owner' see PARA 448 note 11 ante.

9 Public Lending Right Scheme 1982 art 50.



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#### **463. Notification of entitlement and payment of sums due.**

Any sum payable by way of public lending right in respect of a registered interest<sup>1</sup> for any financial year<sup>2</sup> falls due for payment on the last day of that year, unless sooner paid<sup>3</sup>. Any such sum may be paid by cheque or warrant sent through the post directed to the registered address of the registered owner<sup>4</sup> or, in the case of joint owners, to the registered address of the senior owner<sup>5</sup> or to such person and to such address as the owner or joint owners may direct by a written payment mandate to the Registrar of Public Lending Right<sup>6</sup>, delivered at the registry<sup>7</sup> in the prescribed form or a form to the like effect<sup>8</sup>. Every such cheque or warrant must be made payable to the order of the person to whom it is sent and any one of two or more joint owners may give a good receipt for any money due to them under the public lending right scheme<sup>9</sup>.

At the end of each financial year, or as soon as is reasonably practicable thereafter, the registrar must inform each registered owner, by notice posted to his registered address, of:

- 85 (1) the notional number of lendings<sup>10</sup> for that year of each book<sup>11</sup> in respect of which he is a registered owner to whom a sum is payable by way of public lending right in respect of that year; and
- 86 (2) the amount of that sum<sup>12</sup>.

If, after the registrar has so notified the registered owner, the cheque or warrant for the sum referred to is not presented for payment and thereby lapses, there is no further duty on the part of the registrar to take steps to trace the registered owner and it is the responsibility of that owner to make application to the registrar for payment<sup>13</sup>. If at the end of six years from the date upon which a payment in respect of public lending right becomes due no such application has been made by the person entitled to it, the entitlement to that payment lapses<sup>14</sup>.

At the request of a registered owner to whom no notice is required to be given under heads (1) and (2) above in respect of any financial year, the registrar must supply to him particulars<sup>15</sup> of the number of notional loans during the sampling year<sup>16</sup> ending in that financial year of any book in respect of which he is the registered owner, provided the request is made no later than six months after the end of that financial year<sup>17</sup>.

1 For the meaning of 'registered interest' see PARA 448 note 12 ante.

2 For the meaning of 'financial year' see PARA 456 note 5 ante.

3 Public Lending Right Scheme 1982 art 49(1). As to citation of the Public Lending Right Scheme 1982 see PARA 446 note 2 ante.

4 For the meaning of 'registered owner' see PARA 448 note 11 ante.

5 For the meaning of 'senior owner' see PARA 452 note 9 ante.

6 As to the registrar see PARA 444 ante.

7 As to the registry see PARA 448 note 3 ante; and as to the method of delivery see PARA 450 note 3 ante.

8 Public Lending Right Scheme 1982 art 49(2). For the prescribed form of payment mandate see art 49(2), Sch 4.

- 9 Ibid art 49(2).
- 10 As to the calculation of this number see PARA 459 ante.
- 11 For the meaning of 'book' see PARA 447 ante.
- 12 Public Lending Right Scheme 1982 art 49(3).
- 13 Ibid art 49(4)(a).
- 14 Ibid art 49(4)(b).
- 15 Is calculated in accordance with ibid art 42: see PARA 459 ante.
- 16 For the meaning of 'sampling year' see PARA 457 note 11 ante.
- 17 Public Lending Right Scheme 1982 art 49(5).

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### **(viii) Offences**

#### **464. In general.**

It is an offence for any person, in connection with the entry of any matter whatsoever in the register<sup>1</sup>, to make any statement which he knows to be false in a material particular or recklessly to make any statement which is false in a material particular<sup>2</sup>. A person who commits such an offence is liable on summary conviction to a fine of not more than level 5 on the standard scale<sup>3</sup>.

Where such an offence which has been committed by a body corporate<sup>4</sup> is proved to have been committed with the consent or connivance of, or is attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate is guilty of that offence and is liable to be proceeded against accordingly<sup>5</sup>.

1 As to the register see PARA 448 ante.

2 Public Lending Right Act 1979 s 4(7).

3 Ibid s 4(7) (amended by virtue of the Criminal Justice Act 1982 s 46). As to the standard scale see PARA 414 note 6 ante.

4 As to the criminal capacity of incorporated bodies see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) PARA 38.

5 Public Lending Right Act 1979 s 4(8). Where the affairs of a body corporate are managed by its members, this provision applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate: s 4(8).

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### **3. LITERARY, SCIENTIFIC AND CULTURAL INSTITUTIONS AND BODIES**

#### **UPDATE**

#### **465-604 Literary, scientific and cultural institutions and bodies**

Material relating to this part has been revised and published under the title NATIONAL CULTURAL HERITAGE vol 77 (2010).

Halsbury's Laws of England/LIBRARIES AND OTHER SCIENTIFIC AND CULTURAL INSTITUTIONS  
(VOLUME 28 (REISSUE))/4. MISCELLANEOUS FINANCIAL MATTERS/ (1) IN GENERAL

## **4. MISCELLANEOUS FINANCIAL MATTERS**

### **(1) IN GENERAL**

#### **UPDATE**

#### **605-607 In general**

Material relating to this part has been revised and published under the title NATIONAL  
CULTURAL HERITAGE vol 77 (2010).

Halsbury's Laws of England/LIBRARIES AND OTHER SCIENTIFIC AND CULTURAL INSTITUTIONS (VOLUME 28 (REISSUE))/4. MISCELLANEOUS FINANCIAL MATTERS/(2) DISTRIBUTION OF THE NET PROCEEDS OF THE NATIONAL LOTTERY

## **(2) DISTRIBUTION OF THE NET PROCEEDS OF THE NATIONAL LOTTERY**

### **UPDATE**

#### **608-612 Distribution of the Net Proceeds of the National Lottery**

Material relating to this part has been revised and published under the title LICENSING AND GAMBLING vols 67, 68 (2008).

Halsbury's Laws of England/LIBRARIES AND OTHER SCIENTIFIC AND CULTURAL INSTITUTIONS  
(VOLUME 28 (REISSUE))/5. TRANSFERS AND LOANS

## **5. TRANSFERS AND LOANS**

### **UPDATE**

#### **613-617A Transfers to and from certain institutions**

Material relating to this part has been revised and published under the title NATIONAL CULTURAL HERITAGE vol 77 (2010).

Halsbury's Laws of England/LIBRARIES AND OTHER SCIENTIFIC AND CULTURAL INSTITUTIONS  
(VOLUME 28 (REISSUE))/6. UNLAWFUL REMOVALS AND LAWFUL EXPORTS

## **6. UNLAWFUL REMOVALS AND LAWFUL EXPORTS**

### **UPDATE**

#### **618-700 Unlawful removals and lawful exports**

Material relating to this part has been revised and published under the title NATIONAL  
CULTURAL HERITAGE vol 77 (2010).